

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
THE NEW YORK STATE OFFICE OF GENERAL SERVICES
LEASE MANAGEMENT
DIVISION OF REAL ESTATE
LEASING SERVICES
THE GOVERNOR NELSON A. ROCKEFELLER EMPIRE STATE PLAZA
CORNING TOWER, 40TH FLOOR
ALBANY, NEW YORK 12242



AGREEMENT OF LEASE

Premises Address:

Landlord Name
Landlord Address:

Office of the New York State Comptroller's Lease No.:

Project No.:
SFS Project No.:

Agency Name

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PARTIES

This agreement of lease (hereinafter referred to as the "Lease") is made this _____ day of _____ in the year Two Thousand _____ by and between LANDLORD'S NAME, having a principal place of business located at _____, for itself, its heirs, executors, administrators, trustees, distributees, successors, assigns, and legal representatives (hereinafter referred to as the "Landlord"), and The People of the State of New York, acting by and through the Commissioner of General Services (hereinafter referred to as the "Commissioner"), pursuant to Article 2, Section 3(12) of the New York State Public Buildings Law (hereinafter referred to as the "State" or the "Tenant"). The foregoing may be hereinafter referred to individually as a "Party" and collectively as the "Parties."

WITNESSETH; the Parties for the considerations set forth herein covenant and agree as follows:

1. LETTING / PREMISES / USE

The Landlord hereby leases and grants exclusive possession to the Tenant, and the Tenant hereby hires from the Landlord _____ in the building (hereinafter referred to as the "Building") located at _____, in the City of _____, County of _____ and State of New York as shown on the plan designated _____, which is annexed to this Lease as Exhibit 1 (hereinafter referred to as the "Premises" or the "Demised Premises"). The Demised Premises shall be used for the official business of the State by The New York State _____ or by such other departments, commissions, boards or officers of the State of New York as may be entitled by law to use the same or to which the Premises may be allotted by the Commissioner as provided by the Public Buildings Law (the foregoing may be hereinafter collectively referred to as the "Occupying Agency").

2. TERM

The term (hereinafter referred to as the "Term" or the "Lease Term") of this Lease Agreement shall commence on _____ (hereinafter referred to as the "Commencement Date") and shall expire, unless sooner terminated, on _____ (hereinafter referred to as the "Expiration Date" or the "Termination Date") as the same may be modified pursuant to Section 7 of this Lease.

Effective as of the Expiration Date, Termination Date or the end of any extension or holdover of the Term of this Lease, or the Renewal Term, if applicable, the Parties (each hereinafter referred to as a "Releasing Party"), agree to enter into a mutual release agreement (hereinafter referred to as the "Mutual Release") whereby they shall confirm the date of the end of the tenancy and finalize their respective rights and obligations pertaining to the end of the tenancy. The Mutual Release shall be provided by the Tenant to the Landlord and the Landlord agrees to promptly execute and return the same to the Tenant.

3. FIXED RENT

Beginning on the Commencement Date and thereafter monthly, on the first day of each and every calendar month during the Lease Term, and any holdover or extension thereof, the Tenant shall pay to the Landlord, on behalf of the Occupying Agency, rent (hereinafter referred to as the "Fixed Rent") for the Premises in a sum equal to _____ and _____/100 Dollars (\$____) per annum, which equates to a monthly payment in the amount of _____ and _____/100 Dollars (\$____).

Landlords are asked to accept electronic payments or request authorization for payment by paper check from the Commissioner. Such authorization may be granted, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices, including, but not limited to, Article 11-A of the New York State Finance Law. The Landlord shall comply with the Office of the New York State Comptroller's procedures to authorize electronic payments. Landlords can register using the vendor self-service portal sign in page, which has a link "Don't have an account" at: <https://esupplier.sfs.ny.gov/psp/fscm/SUPPLIER/?cmd=login>. There is also a portal landing page with more information about the benefits of portal use: https://esupplier.sfs.ny.gov/psc/fscm/SUPPLIER/ERP/c/NUI_FRAMEWORK.PT_LANDINGPAGE.GBL?Page=PT_LANDINGPAGE&Action=U&LP=ERP.SUPPLIER.NY_SUP_PUB_HOME.PG_FL&. If the Landlord registered for a NYS Vendor ID but never received, or no longer has the enrollment email from the New York Statewide Financial System (hereinafter referred to as "SFS"), it can contact the SFS Helpdesk at helpdesk@sfs.ny.gov to obtain an Update Primary Contact Form AC-3327-S. The primary contact is granted access to the portal through the update and can initiate the banking request. The primary contact forms are only provided to registered NYS vendors through the SFS Helpdesk.

4. TAX ESCALATIONS

a. As used herein:

1. The term "Base Year" shall mean: the twelve-month period, commencing on the first day of the month following the Commencement Date, as that is defined in Sections 2 and 7 of this Lease. Notwithstanding the foregoing, in the event that the Commencement Date, as that is defined in Sections 2 and 7 of this Lease, occurs on the first day of a month, the aforementioned twelve-month period shall begin on that day.

2. The term "Escalation Year" shall mean each twelve-month period (or portion thereof within the Term, and any holdover or any extension thereof) the first day of which shall commence on the first day immediately following the end of the Base Year. Each successive Escalation Year shall commence on the anniversary of the immediately preceding Escalation Year.

3. The term "Taxes" shall mean all real estate taxes; water consumption charges and sewer rents (provided such water consumption charges and/or sewer rents are not included in Operating Expenses as that term is defined in Section 5 of this Lease); county taxes; transit taxes or any other governmental charge of a similar nature, including business improvement district (BID) charges, which may be levied or assessed upon, or with respect to, all or any part of the real property of which the Building and the Premises are a part, by the city, county or any other taxing authority having jurisdiction over such real property.

If, at any time during the Term, and any holdover or extension thereof, the method of taxation prevailing at the date of this Lease shall be altered so that in lieu of, or as an addition to, or as a substitute for, the whole or any part of the taxes, levies, impositions or charges now levied, assessed or imposed on all or any part of the real property of which the Building and the Premises are a part, there shall be levied, assessed or imposed (i) a tax, levy, imposition or charge based on the rents received therefrom, whether or not wholly or partially as a capital levy or otherwise, or (ii) a tax, levy, imposition or charge measured by or based in whole or in part upon all or any part of the real property of which the Building and the Premises are a part and imposed upon the Landlord, or (iii) a license fee measured by the Fixed Rent payable by the Tenant, on behalf of the Occupying Agency, or the Occupying Agency to the Landlord, or (iv) any other tax, levy, imposition, charge or license fee, however described or imposed, then all such taxes, levies, impositions, charges or license fees, or the part thereof so measured or based, shall be deemed to be Taxes.

Taxes shall also include all reasonable expenses, including reasonable attorney's fees, incurred by the Landlord in connection with any successful application for a reduction in the assessed valuation of the real property of which the Building and the Premises are a part; however, in no event shall the amount of such expenses exceed the amount of any reduction in Taxes resulting from such application. Such reasonable expenses shall be allocated to the Escalation Years for which a successful reduction in the assessed value is granted in an amount proportionately related to the amount of the reduction in the assessed value for such Escalation Years.

The foregoing notwithstanding, Taxes shall not include:

- a) any special ad valorem levies;
- b) special assessments;
- c) assessments for specific local improvements;
- or
- d) general income, franchise, corporate, personal property, capital levy, capital stock, excess profits, transfer, revenue, estate, inheritance, gift, devolution or succession taxes.

4. The term "Tenant's Proportionate Share" shall mean a fraction, the denominator of which is the rentable area of the Building (____ square feet) and the numerator of which is the rentable area of the Demised Premises (____ square feet). The Tenant's Proportionate Share, expressed as a percentage, is ____ percent (____%). If the numerator or denominator used in the square footage percentage calculation is found to be inaccurate, the State retains the right to conduct a survey of the Premises and calculate the numerator and denominator set forth above in accordance with applicable standards in order to determine a revised Tenant's Proportionate Share (hereinafter referred to as the "Revised Tenant's Proportionate Share"). The survey and the proposed Revised Tenant's Proportionate Share will be provided to the Landlord by the Tenant, and the Landlord shall have sixty (60) days to review the same. If the Landlord does not object to the survey and the proposed Revised Tenant's Proportionate Share within sixty (60) days from the receipt of the same, the Revised Tenant's Proportionate Share shall be deemed to be accepted and the Tenant shall seek adjustment of the billings for tax escalations based upon the Revised Tenant's Proportionate Share. If the Landlord objects to the survey and the proposed Revised Tenant's Proportionate Share within sixty (60) days from receipt of the same, the Parties shall work to resolve the dispute; but such dispute, if the Parties are unable to agree, shall be finally determinable by the Commissioner.

b. In the event that the Taxes paid by the Landlord for any Escalation Year shall be more or less than the Taxes paid by the Landlord for the Base Year, then the Fixed Rent shall be adjusted up or down, as the case may be, by an amount equal to the Tenant's Proportionate Share of such increase or decrease (hereinafter referred to as the "Tax Escalation Payment"). The Landlord shall submit a written claim (hereinafter referred to as the "Tax Escalation Claim") for a Tax Escalation Payment, along with copies of paid bills for Taxes, within one (1) year of the end of the applicable Escalation Year.

The Tax Escalation Claim shall be sent to the Tenant, in care of The New York State Office of General Services' (hereinafter referred to as "OGS") Business Services Center by e-mail to: BSCLeaseInvoices@ogs.ny.gov or by mail to: (name of the Occupying Agency), c/o BSC Lease Unit, 1220 Washington Avenue, Building 5, Floor 6, Albany, NY 12226-1900. Notwithstanding the foregoing, the Tenant shall also have the right to independently review the Landlord's payments of Taxes.

Any amount due either Party, shall be due and payable within thirty (30) days following the completion of the review by the Tenant of the Tax Escalation Claim and satisfactory written substantiation demonstrating that the Taxes have been paid. Payment to the Landlord shall be governed by Article 11-A of the New York State Finance Law. The remittance address for payments to the Landlord is: (remittance address for the Landlord). Such payment shall not preclude any subsequent audit by the Tenant. Any amount due to the Tenant shall be in the form of a credit against the next payment(s) of Fixed Rent due pursuant to the provisions of this Lease. The provisions of this section shall survive the end of the Lease Term, and any holdover or extension thereof. In the event that the Term of this Lease or the Renewal Term, if applicable, has ended, the Landlord, the Tenant and/or the Occupying Agency shall still be required to make payment in accordance with this section.

If the Landlord fails to submit a Tax Escalation Claim, as set forth above, within one (1) year from the last day of the applicable Escalation Year, no increase shall be allowed and the Tax Escalation Claim therefor shall be deemed waived. No Tax Escalation Claim shall be allowed unless satisfactory written substantiation has been submitted as set forth above, demonstrating that the Taxes have been paid. The Tenant shall be provided with an informational copy of all submissions made to the Tenant, which shall be sent to The New York State Office of General Services, Lease Management, Division of Real Estate, Leasing Services, The Governor Nelson A. Rockefeller Empire State Plaza, Corning Tower, 40th Floor, Albany, New York 12242. The Landlord, Tenant and Occupying Agency shall notify each other of all changes in the above referenced addresses within ten (10) business days of the effective date of such change.

The Landlord may take the benefit of the provisions of any statute or ordinance permitting any Taxes to be paid over a period of time, and the installments of any such Taxes as shall become due and payable during any year of the Lease Term, and any holdover or extension thereof, shall be included in the calculation of any Tax Escalation Payment provided for in this section. However, in no event shall the Tenant or the Occupying Agency be liable for any interest, carrying charges or any other charges arising out of or in any way attributable to the Landlord's election to take the benefit of the provisions of any statute or ordinance permitting Taxes to be paid over a period of time.

The amount of Taxes for the Base Year, as defined above, shall be the amount finally determined to be legally payable by legal proceedings or otherwise; provided further, however, that in the event the Base Year Taxes are reduced through legal proceedings after the execution of this Lease, the Landlord shall contest any subsequent increase in assessed valuation unless the Landlord, acting reasonably and in good faith, determines that such contest would be futile.

In no event shall the Tenant be liable for any increase in Taxes, or any portion thereof, attributable to the Landlord's election to take the benefit of any tax abatement statutes or similar provisions but, instead, the Base Year Taxes shall be computed as if no such abatement existed. In addition, subsequent Escalation Years shall be calculated based on the actual Taxes paid with the abatement included with the understanding that the State will not take a credit for lower Taxes paid in Escalations Years due to the handling of the abatements.

5. OPERATING EXPENSE ESCALATIONS

a. As used herein:

1. The term "Base Year" shall mean: the twelve-month period, commencing on the first day of the month following the Commencement Date, as that is defined in Sections 2 and 7 of this Lease. Notwithstanding the foregoing, in the event that the Commencement Date, as that is defined in Sections 2 and 7 of this Lease, occurs on the first day of a month, the aforementioned twelve-month period shall begin on that day.

2. The term "Escalation Year" shall mean each twelve-month period (or portion thereof within the Term or any extension thereof), the first day of which shall commence on the first day immediately following the end of the Base Year. Each successive

Escalation Year shall commence on the anniversary of the immediately preceding Escalation Year.

3. The term "Tenant's Proportionate Share" shall mean a fraction, the denominator of which is the rentable area of the Building (____ square feet) and the numerator of which is the rentable area of the Demised Premises (____ square feet). The Tenant's Proportionate Share, expressed as a percentage, is ____ percent (___%). If the numerator or denominator used in the square footage percentage calculation is found to be inaccurate, the State retains the right to conduct a survey of the Premises and calculate the numerator and denominator set forth above in accordance with applicable standards in order to determine a revised Tenant's Proportionate Share (hereinafter referred to as the "Revised Tenant's Proportionate Share"). The survey and the proposed Revised Tenant's Proportionate Share will be provided to the Landlord by the Tenant and the Landlord shall have sixty (60) days to review the same. If the Landlord does not object to the survey and the proposed Revised Tenant's Proportionate Share within sixty (60) days from receipt of the same, the Revised Tenant's Proportionate Share shall be deemed to be accepted, and the Tenant shall seek adjustment of the billings for operating expense escalations based upon the Revised Tenant's Proportionate Share. If the Landlord objects to the survey and the proposed Revised Tenant's Proportionate Share within sixty (60) days from receipt of the same, the Parties shall work to resolve the dispute; but such dispute, if the Parties are unable to agree, shall be finally determinable by the Commissioner.

b. In the event that the costs paid by the Landlord for Operating Expenses (as defined hereinafter) for any Escalation Year shall be more or less than the costs paid by the Landlord for Operating Expenses (as defined hereinafter) for the Base Year, then the Fixed Rent shall be adjusted up or down, as the case may be, by an amount equal to the Tenant's Proportionate Share of such increase or decrease (hereinafter referred to as the "Operating Expense Escalation Payment"). The Landlord shall submit a written claim (hereinafter referred to as the "Operating Expense Escalation Claim") for an Operating Expense Escalation Payment, along with copies of paid bills and any supporting documentation to support its Operating Expense Escalation Claim, within one (1) year of the end of the applicable Escalation Year.

The Operating Expense Escalation Claim shall be sent to the Tenant, in care of The New York State Office of General Services ("OGS") Business Services Center by e-mail to: BSCLeaseInvoices@ogs.ny.gov or by mail to: (name of the Occupying Agency), c/o BSC Lease Unit, 1220 Washington Avenue, Building 5, Floor 6, Albany, NY 12226-1900. Notwithstanding the foregoing, the Tenant shall also have the right to independently review the Landlord's payments of operating expenses.

The Operating Expense Escalation Claim shall be sent to the Occupying Agency at the following address: _____. Notwithstanding the foregoing, the Tenant shall also have the right to independently review the Landlord's payments of operating expenses.

Any adjustment(s) to the Landlord's Operating Expense Escalation Claim shall be made within thirty (30) days following the completion of the review by the OGS Lease Audit Unit of the Landlord's Operating Expense Escalation Claim and copies of paid

bills and any supporting documentation, and shall show the details and reasons for the proposed adjustment(s). Said review may necessitate the provision of additional documentation by the Landlord as requested by the Tenant. If the Landlord is unable or refuses to produce sufficient documentation, in accordance with Generally Accepted Accounting Principles (hereinafter referred to as "GAAP"), consistently applied, to support the amounts set forth and included in the Base Year or any Escalation Year, to the Tenant as set forth above, within one hundred twenty (120) days of demand therefor, the Operating Expense Escalation Claim shall be disallowed and payment therefor denied without recourse. Any amount due either Party, shall be due and payable within thirty (30) days following the completion of the review by the Tenant of the Landlord's Operating Expense Escalation Claim and all substantiating documentation, including, but not limited to, copies of paid bills for Operating Expenses. Payment to the Landlord shall be governed by Article 11-A of the New York State Finance Law. The remittance address for payments to the Landlord is: (remittance address for the Landlord). Such payment shall not preclude any subsequent audit by the Tenant. Any amount due to the Tenant shall be in the form of a credit against the next payment(s) of Fixed Rent due pursuant to the provisions of this Lease.

c. If the Landlord fails to submit an Operating Expense Escalation Claim to the Tenant, within one (1) year from the end of the respective Escalation Year, no payment will be allowed for such period and the Operating Expense Escalation Claim therefor shall be deemed waived. The Occupying Agency shall be provided with an informational copy of all submissions made to the Tenant, which shall be sent to The New York State Office of General Services, Lease Management, Division of Real Estate, Leasing Services, The Governor Nelson A. Rockefeller Empire State Plaza, Corning Tower, 40th Floor, Albany, New York 12242. The Landlord, Tenant and Occupying Agency shall notify each other of all changes in the above referenced addresses within ten (10) business days of the effective date of such change.

d. The provisions of this section shall survive the end of the Lease Term, and any holdover or extension thereof. In the event that the Term of this Lease, or the Renewal Term, if applicable, has ended, the Landlord, the Tenant and/or the Occupying Agency shall still be required to make payment in accordance with this section.

e. "Operating Expenses" shall mean the aggregate of those costs, expenses, disbursements and expenditures, paid or incurred by or on behalf of the Landlord, whether directly or through independent contractors with respect to the operation, maintenance, repair, cleaning, and security of the Building and the Demised Premises. Operating Expenses shall be "net" only, and for that purpose shall be reduced by the amounts of any insurance or other reimbursement, recovery, recoupment, payment, discount, credit, reduction, allowance or the like, received by the Landlord in connection with such Operating Expenses.

1. Operating Expenses shall include:

i) Costs incurred in connection with the repair and maintenance of the Building and building equipment, facilities and installations, including, but not limited to, repairs and maintenance to the heating, ventilating and air conditioning (hereinafter referred to as the "HVAC") systems and the costs of

providing and replacing electric ballasts, lamps, fluorescent tubes and bulbs in lighting fixtures in the Building and the Premises during the Term of this Lease, the Renewal Term, if applicable, and any extension or holdover thereof;

ii) Payroll, taxes, wages and salaries of all persons engaged in the operation, repair, cleaning, security and maintenance of the Building and the Demised Premises through and including the Building Manager, and fringe benefits including social security taxes, unemployment taxes, workers' compensation premiums, coverage for disability benefits, contributions to any pension, hospitalization, welfare, or retirement plans or any other similar or like expense incurred under the provisions of any collective bargaining agreement and any other similar or like expense incurred to provide benefits for employees not covered by collective bargaining agreements who are engaged in the operation, repair, cleaning, security and maintenance of the Building;

iii) Water consumption and sewer charges, provided the same are not included in Taxes, as that term is defined in Section 4 of this Lease;

iv) Costs of fuel consumed for the heating of the common areas of the Building (and the Demised Premises, if the same is included in the Fixed Rent);

v) Costs of electricity consumed in the common areas of the Building (and the Demised Premises, if the same is included in the Fixed Rent);

vi) Costs of building services for cleaning, including, but not limited to, janitorial and window cleaning and exterminating;

vii) Costs of service and maintenance contracts with independent contractors, including contracts for HVAC and elevators;

viii) Costs of insurance coverage on the Building (excluding the cost of rent loss and plate glass insurance) and the costs of the insurance required by Sections 37 and 38 of this Lease;

ix) Costs of grounds maintenance, including, but not limited to, snow removal; and

x) Costs of supplies used in such operation, maintenance, repair, cleaning, and security of the Building and, as applicable, the Demised Premises.

2. It is agreed that Operating Expenses shall exclude or be adjusted to exclude the following:

i) Any costs that would be required to be capitalized under GAAP, consistently applied, as a capital repair or Capital Improvement (as that term is defined in Section 5(f)(1)(i) of this Lease);

ii) Salaries, payroll taxes and fringe benefits including social security taxes, unemployment taxes, workers' compensation premiums, coverage for disability benefits, contributions to any pension, hospitalization, welfare, or retirement plans or any other similar or like expense incurred

under the provisions of any collective bargaining agreement and any other similar or like expense incurred to provide benefits for employees not covered by collective bargaining agreements for any employee above the position of Building Manager, including any form of compensation to principals, officers or partners of the Landlord;

iii) Any cost paid to a related or affiliated person or company of the Landlord that is in excess of the amount that would have been paid in an arm's-length transaction;

iv) Any Taxes, as that term is defined in Section 4(a)(3) of this Lease, special ad valorem levies; assessments for specific local improvements; general income, franchise, corporate, personal property, capital levy, capital stock, excess profits, transfer, revenue, estate, inheritance, gift, devolution or succession taxes; special assessment charges, Business Improvement District (B.I.D.) payments, or Payment in Lieu of Taxes (P.I.L.O.T.) payments or any fees or costs to have such items reduced;

v) Leasing commissions or other portions of general and administrative expenses, including advertising, travel and entertainment attributable to leasing in the Building. Also excluded are expenses, if any, for the entertainment of tenants and/or political or charitable contributions;

vi) Late charges, interest or carrying charges;

vii) Management or attorney's fees;

viii) Mortgage payments, mortgage refinancing costs, ground lease payments, if any, and depreciation of the Building and Capital Improvements, as that term is defined in Section 5(f)(1)(i) of this Lease, located therein;

ix) The cost of any service that is provided to another tenant in the Building but not provided to the Tenant and/or the Occupying Agency; for example: Electricity that is provided to another tenant as part of its base rent when the electricity used in the Demised Premises is measured through a meter and the costs therefor are paid for by the Tenant, on behalf of the Occupying Agency, or the Occupying Agency directly to the Landlord or the utility company providing such service;

x) Major new items or services not included in the Base Year; for example: elevator maintenance contract costs that are covered by warranties during the Base Year, unless such items were included under general maintenance line items for the Building for the Base Year. However, notwithstanding anything herein provided to the contrary, any subsequent or new expense item(s) incurred after the Base Year that the Landlord and the Tenant mutually agree can be added to Operating Expenses, as that term is defined in Section 5(e) of this Lease, for the remaining Lease Term, are to be added both to the Operating Expenses for the Escalation Year in which they were incurred, and to the Base Year, so that thereafter in the remaining Escalation Years, such item(s) will qualify as an Operating Expense subject to the terms of this Lease;

xi) The cost of major repairs to the structure of the Building; for purposes of this section, structure shall mean the exterior walls, including curtain and window walls, structural

slabs, foundations, roof and supportive members, columns, and beams or bearing walls;

xii) The cost of any work performed (such as preparing the Demised Premises for occupancy, including painting, decorating, or redecorating) or services provided (such as above-standard cleaning services) for any tenant, including the Tenant, at such tenant's cost or, in this case, the cost of the Occupying Agency, or provided by the Landlord without charge as an inducement to lease (such as a rent adjustment, improvement allowance or free overtime air-conditioning);

xiii) The cost of any work or services done to ensure that the Building and the Premises comply with all applicable laws, rules, ordinances and regulations in effect as of the Commencement Date or to bring the Building or the Premises into compliance after issuance of a Notice or Letter of Non-Compliance with such laws, rules, ordinances and regulations issued by a governmental entity (including federal, State, or local governmental entities) or issued by a contractor or inspector hired by the Landlord;

xiv) Any cost that does not comply with the terms and conditions of this Lease, as applicable; and

xv) Any cost for which sufficient documentation of payment is not provided in accordance with the requirements pertaining thereto set forth in this Lease.

f. Notwithstanding anything to the contrary contained herein, the Parties agree that the following provision shall apply to this Lease:

1. Definitions:

i) "Capital Improvement" means any alteration, addition, change, repair or replacement (whether structural or nonstructural) made by the Landlord in or to the Building or the common areas or equipment or systems thereof, that under GAAP, consistently applied, is properly classified as a capital expenditure. The aggregate costs of any Capital Improvement shall be deemed to include, without limitation, architectural, engineering and expediting fees and legal, consulting, inspection and commissioning fees actually incurred in connection therewith, but shall be deemed to exclude actual or imputed financing costs in connection therewith.

ii) "Independent Engineer" means an engineer selected by the Landlord. From time to time, but not more than once during any period of twelve (12) consecutive months, the Landlord and the Tenant may each recommend one or more independent professional engineers licensed by the State of New York or energy management specialists, in each case with at least six (6) years' experience in performing energy audits on commercial property similar in size and use to the real property of which the Premises are a part, for inclusion on the list of independent engineers maintained by the Tenant. Requests for copies of the list may be made to the Tenant, in compliance with Section 51 of this Lease. Any such recommendation(s) by the Landlord or the Tenant shall be subject to the written approval of the other Party, which shall not be unconditionally withheld, delayed or conditioned.

iii) "Projected Annual Savings" means the average annual base building utility cost savings anticipated to be generated by a Capital Improvement, determined using commonly applied engineering methods and an estimate provided in writing by the Independent Engineer.

iv) "Simple Payback Period" means the length of time (expressed in months) obtained by dividing (x), the aggregate costs of any such Capital Improvement, by (y), the Projected Annual Savings.

2. Capital Improvements: The Landlord may include the costs of certain Capital Improvements in Operating Expenses pursuant to Section 5(e)(1) of this Lease in accordance with the following:

Capital Improvements intended to improve Energy Efficiency. In the case of any Capital Improvement that the Independent Engineer certifies in writing will, subject to reasonable assumptions and qualifications, reduce the Building's consumption of electricity, oil, natural gas, steam, water or other utilities, and notwithstanding anything to the contrary contained in Section 5(e)(2) of this Lease:

The costs of such Capital Improvement shall be deemed reduced by the amount of any NYSERDA or similar government or other incentives for energy efficiency improvements actually received by the Landlord to defray the costs of such Capital Improvement, and shall further be reduced by any energy efficiency tax credits or similar energy-efficiency-based tax incentives actually accruing to the Landlord as a result of such Capital Improvement.

Commencing with the first Escalation Year following the year in which such Capital Improvement is completed and placed in service, and continuing for the duration of the Adjusted Payback Period (as hereinafter defined), the Landlord may include in Operating Expenses a portion of the aggregate costs of such Capital Improvement equivalent to eighty percent (80%) of the Projected Annual Savings, so that the aggregate costs of such Capital Improvement will be fully amortized over one hundred twenty-five percent (125%) of the Simple Payback Period (such period of time being hereinafter referred to as the "Adjusted Payback Period").

g. If, during the Base Year or any Escalation Year, the Landlord shall furnish any particular item(s) of work or service that would otherwise constitute an Operating Expense hereunder to some, but not all of the Building, due to the fact that (i) less than the entire rentable space of the Building is occupied or leased, (ii) such item(s) of work or service is not required or desired by a tenant, (iii) a tenant is itself obtaining and providing such item of work or service or (iv) the Building has not yet opened or is unoccupied, then, for purposes of computing Operating Expenses for such Escalation Year, the amount included in Operating Expenses for such item(s) for such period shall be deemed to be increased to reflect the Operating Expenses that would have been payable had the Building been ____ percent (___%) occupied for the entire Base Year or Escalation Year (as the case may be) or if such item(s) of work or service had been furnished to ____ percent (___%) of the entire Building.

h. The Landlord shall establish and maintain complete and accurate books, records, documents, accounts, and other evidence directly pertinent to its performance under this Lease

(hereinafter, collectively referred to as the "Records") in accordance with GAAP, consistently applied. The Records must be kept for the balance of the calendar year in which they were made and through the expiration of six (6) additional years after the expiration of this Lease. The State Comptroller, the Attorney General, and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this Lease, shall have access to the Records, for the term specified above for any purpose performed in accordance with Generally Accepted Auditing Standards (hereinafter referred to as "GAAS"). The State shall take reasonable steps to protect from public disclosure any of the Records that are exempt from disclosure under Section 87 of the New York State Public Officers Law (hereinafter referred to as the "Statute"), provided that (i) the Landlord shall timely inform an appropriate State official, in writing, that said Records should not be disclosed; (ii) said Records shall be sufficiently identified; and (iii) said Records are determined by the State to be exempt under the Statute. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

i. At the Commencement Date, the Landlord shall provide a copy of its capitalization policy to the OGS Lease Audit Unit by e-mail to: LeaseAudit@ogs.ny.gov or by mail to: The New York State Office of General Services, Lease Audit Unit, The Governor Nelson A. Rockefeller Empire State Plaza, Corning Tower, 40th Floor, Albany, NY 12242.

6. EXECUTORY PROVISION

As required by law, this Lease shall be deemed executory only to the extent of the monies available to the Tenant or the Occupying Agency for the leasing of said Premises and no liability shall be incurred by the State beyond the monies available for such purpose. Notwithstanding the foregoing, if the monies available therefor are monies appropriated for and made available to one or more departments, commissions, boards, or officers other than the Tenant or the Occupying Agency, this Lease shall be deemed executory only to the extent of the monies available to the one or more departments, commissions, boards, or officers to which the Premises shall be allotted by the Commissioner and no liability in such cases shall be incurred by the State beyond the monies available for such purposes.

7. POSSESSION

Notwithstanding the provisions of Section 2 of this Lease, the Lease Term, and the obligation to pay Fixed Rent, shall commence upon the first day of the month following the date of Substantial Completion of the Landlord's Work or the Work, as those terms are defined in Schedule B, the Work Letter, incorporated by Section 43 of this Lease, or, if those terms are not so defined, the date the Demised Premises are ready for occupancy (hereinafter referred to as the "Commencement Date"), and the Lease Term shall terminate on the last day of that calendar month immediately preceding the ____ (____) anniversary of the Commencement Date (hereinafter referred to as the "Expiration Date" or the "Termination Date").

It is further agreed that all terms or events provided for in this Lease that are intended to run coincident with or are measured from the commencement or termination of the Lease Term, including but not limited to Base Years, Escalation Years and Fixed Rent or

other payment provisions, shall be computed or determined in a manner consistent with the preceding paragraph.

The Landlord shall make a good faith and determined effort to perform the Work, as defined in Section 43 and Schedule B of this Lease, such that the Tenant/Occupying Agency may occupy the Demised Premises at the Commencement Date set forth in Section 2. If the Landlord has commenced such Work within ____ (____) days of delivery of a fully executed copy of this Lease to the Landlord by the Tenant and has used its good faith and determined efforts to complete the Work by the timeframe set forth in Schedule B, the failure to give possession on such date shall not affect the validity of this Lease. However, without limiting any other remedy the Tenant may have, including termination, if the Tenant reasonably determines that the Landlord has not made a good faith and determined effort to complete the Work in a timely fashion, the Tenant shall be entitled to offset Fixed Rent otherwise due to the extent of any expenses, costs or other losses it or the Occupying Agency may have suffered as a result of such delay.

8. RENEWAL (If Applicable)

If the Fixed Rent for the Renewal Term has not been determined:

So long as the Tenant is not then in default under this Lease beyond the expiration of any applicable cure period, the Tenant shall have the option to renew this Lease for an additional term of ____ (__) years (hereinafter referred to as the "Renewal Term") subject to the terms set out below. The Fixed Rent for the Premises during the Renewal Term shall be at fair market rate for comparable office buildings in ____, New York, to be determined at the time that the Tenant exercises its renewal option considering all concessions, the imposition of new Base Years for Taxes and Operating Expenses, as the same are discussed in Sections 4 and 5 of this Lease and the cost of any work being performed by the Landlord. The Tenant shall exercise its renewal option (hereinafter referred to as the "Renewal Option") by notifying the Landlord in writing, in accordance with Section 51 of this Lease, of its exercise of the Renewal Option (hereinafter referred to as the "Renewal Notice") not fewer than ____ (__) days prior to the end of the Term. Within thirty (30) days of the Landlord's receipt of the Tenant's Renewal Notice, the Landlord shall supply to the Tenant in writing the Fixed Rent for the Premises during the Renewal Term. Within thirty (30) days of the Tenant's receipt of the Landlord's notification as to the Fixed Rent for the Premises during the Renewal Term, the Tenant shall respond as follows: (a) the Tenant shall notify the Landlord in writing, in accordance with Section 51 of this Lease, within the said thirty (30) day period that it accepts the Fixed Rent proposed by the Landlord for the Renewal Term in which case the Parties shall commence the process of executing a renewal agreement (hereinafter referred to as the "Renewal Agreement") memorializing the agreement of the Parties as to the terms that shall govern during the Renewal Term or (b) the Tenant shall notify the Landlord in writing, in accordance with Section 51 of this Lease, within the thirty (30) day period that it rejects the Fixed Rent set out by the Landlord for the Renewal Term in which case the Tenant shall be deemed without further notice and without further agreement between the Parties to have elected not to exercise its option for said Renewal Term and any prior exercise of the Renewal Option for that Renewal Term is deemed revoked. If the Tenant fails to notify the Landlord within said thirty (30) day period that it either accepts or

rejects the proposed Fixed Rent for the Premises during the Renewal Term, then the Tenant shall be deemed to have rejected the Fixed Rent proposed by the Landlord and the Renewal Option will expire.

If the Fixed Rent for the Renewal Term has been determined:

So long as the Tenant is not then in default under this Lease beyond the expiration of any applicable cure period, the Tenant shall have the option to renew this Lease for an additional term of ____ (__) years (hereinafter referred to as the "Renewal Term") subject to the terms set out below. The Fixed Rent for the Premises during the Renewal Term shall be _____ and ____/100 Dollars (\$____). The Tenant shall exercise its renewal option (hereinafter referred to as the "Renewal Option") by notifying the Landlord in writing, in accordance with Section 51 of this Lease, of its exercise of the Renewal Option not fewer than _____ (__) days prior to the end of the Term. The Parties shall then commence the process of executing a renewal agreement (hereinafter referred to as the "Renewal Agreement") memorializing the agreement of the Parties as to the terms that shall govern during the Renewal Term.

The renewal of this Lease shall be binding upon the Parties and their respective successors and assigns upon the full completion of the (i) execution of the Renewal Agreement by all necessary Parties; (ii) approval of the Renewal Agreement by the Office of the Attorney General, as to form, and the Office of the New York State Comptroller, as necessary; and (iii) delivery of the fully executed and approved Renewal Agreement to the Landlord by the Tenant.

9. CANCELLATION (If applicable)

The Tenant shall have the right (hereinafter referred to as the "Cancellation Right"), subject to the provisions of this Section 9, to terminate this Lease at any time after the end of the _____ of the Term, with respect to the entire Premises only, as that is defined in Section 1 of this Lease, so long as the Tenant delivers to the Landlord a written notice (hereinafter referred to as the "Cancellation Notice"), in accordance with Section 51 of this Lease, of its election to exercise its Cancellation Right on or before the date that is not fewer than _____ (__) days prior to the effective date of the cancellation (hereinafter referred to as the "Cancellation Date"). If the Tenant timely and properly exercises the Cancellation Right, the Tenant and the Occupying Agency shall vacate the Premises and deliver possession thereof to the Landlord in the condition required by the terms of this Lease on or before the Cancellation Date and the Tenant and the Occupying Agency shall have no further obligations under this Lease except for those accruing prior to the Cancellation Date and those which, pursuant to the terms of this Lease, survive the expiration or early termination of this Lease. In the event that the Tenant does not deliver to the Landlord the Cancellation Notice within the time period provided in this paragraph, the Tenant shall be deemed to have waived its Cancellation Right and the provisions of this Section 9 shall have no further force or effect.

10. HOLDOVER

Any holdover after the expiration of the Term, or any extensions thereof, shall be construed to be a tenancy from month-to-month and shall to the extent not inconsistent with this

provision be on the same terms and conditions as set forth in this Lease.

11. ELECTRIC SERVICE

The Commissioner encourages landlords and tenants to take steps to reduce energy consumption with respect to this section. Floor plans and design shall, to the extent possible, be developed in a manner to maximize natural lighting and HVAC efficiencies that meet or exceed the Energy Conservation Construction Code, the specifications contained in the OGS Material Specifications for Leased Facilities (hereinafter referred to as the "MSLF"), attached to this Lease as Exhibit 2. These specifications require the use of energy conservation measures, such as: Energy Star rated products, programmable thermostats, motion and lighting sensors, low wattage fluorescent lighting, and high efficiency variable speed motors/controllers. The Landlord and the Tenant shall also work cooperatively together to improve building efficiency and operational procedures through the use of measures such as angling blinds to limit solar gains. In addition, Governor Hochul's Executive Order No. 22 (hereinafter referred to as "EO-22"), which is attached hereto as Exhibit 3, contains requirements and restrictions pertaining to electricity. The Landlord acknowledges an understanding of the requirements of EO-22 and pledges to cooperate with the Tenant and the Occupying Agency in their implementation.

At its sole cost and expense, the Landlord shall furnish and maintain, throughout the Term of this Lease, the Renewal Term, if applicable, and any holdover or extension thereof, the following: electric service distribution equipment, lighting fixtures, wiring, electric service of sufficient capacity and quality for properly lighting the Premises and for the operation of the Tenant and the Occupying Agency's occupancy including, in addition to normal building requirements, electrical services for the Occupying Agency's computer, data or telephone server and distribution rooms, electrical office equipment and appurtenances.

At its sole cost and expense, the Landlord shall also maintain a/the revenue grade electric meters to clearly measure the consumption of all electrical power used within the Building and the Demised Premises.

If the Landlord pays for electric

The cost of electric current consumed in the Building and the Demised Premises and for the general lighting and operation of the Occupying Agency's office appliances and air conditioning equipment shall be paid for by the Landlord.

If the Occupying Agency pays for electric

Electric current consumed in the Demised Premises for the provision of hot water, general lighting and the operation of the Occupying Agency's office appliances and air conditioning equipment shall be separately metered and consumption charges paid for by the Tenant, on behalf of the Occupying Agency, to the local utility firm providing such service in compliance with Article 11-A of the New York State Finance Law. It is further agreed and understood that no electric current except that which is consumed in the Demised Premises shall be measured by the metering device or devices used to measure the consumption of electric current in the Demised Premises.

Notwithstanding the foregoing, the cost of electric current consumed in the common areas of the Building shall be paid by the Landlord, at its sole cost and expense.

At its sole cost and expense, the Landlord shall provide and replace all electric ballasts, lamps, fluorescent tubes and bulbs in lighting fixtures in the Building and the Premises during the Term of this Lease, the Renewal Term, if applicable, and any extension or holdover thereof. The Landlord shall implement a program to appropriately recycle the replaced lighting ballasts, lamps and bulbs in an environmentally sensitive manner.

Lighting levels, electrical devices and the design of energy consuming equipment shall comply with the most current adopted version of the Energy Conservation Construction Code that is in place at the time the building permit is issued and the OGS MSLF, attached to this Lease as Exhibit 2. Within the limitations of the Energy Conservation Construction Code the following general levels of illumination, measured in foot candles, shall be provided and maintained:

- a. Office Areas: 30 - 50 foot candles (hereinafter referred to as "FC") at 30" above finished floor (hereinafter referred to as "AFF") (20 - 30 FC at 30" AFF when utilizing LED fixtures)
- b. Lobbies: 5 FC at floor
- c. Corridors/Stairs: 5 FC at floor
- d. Bathrooms: 5 FC at floor
- e. Copy Rooms: 10 FC at 30" AFF
- f. Low activity warehouse area: 5 FC at floor
- g. Active warehouse area - large labels: 10 FC at floor
- h. Active warehouse area - small labels: 30 FC at floor

The measurement of the actual foot candle levels will be accomplished in accordance with the Illuminating Engineering Society's standards and practices and procedures for measuring light level uniformity. Exit and emergency illumination shall be designed and installed in accordance with the latest adopted version of the New York State Uniform Fire Prevention and Building Code.

12. HEATING, VENTILATING AND AIR CONDITIONING (HVAC)

The Commissioner encourages landlords and tenants to take steps to reduce energy consumption. In addition, Governor Hochul's Executive Order No. 22, which is attached hereto as Exhibit 3, contains requirements and restrictions pertaining to HVAC. The Landlord acknowledges an understanding of the requirements of EO-22 and pledges to cooperate with the Tenant and the Occupying Agency in their implementation. On or before the Commencement Date, as that term is defined in Sections 2 and 7 of this Lease, the Landlord shall provide a written description of the existing Building and/or Demised Premises HVAC system(s), including operating hours, energy management, maintenance schedules and any other pertinent requirements, and indicate any portion(s) of the HVAC system(s) that are serving other tenants or the common areas of the Building. The Landlord shall furnish, install and operate an adequate and suitable year-round environmental control system and appurtenances that shall be capable of providing the following:

- a. The heating portion of the system shall be capable of maintaining heat when necessary for the proper comfort

of the occupants, which shall be not less than sixty-eight (68) degrees Fahrenheit or more than seventy-five (75) degrees Fahrenheit, throughout the Demised Premises.

- b. The ventilation of the said system shall be provided in accordance with the New York State Uniform Fire Prevention and Building Code. (New York City Construction Codes for locations within NYC.) The Tenant and the Occupying Agency stipulate that for the purpose of this section the maximum number of people in the Demised Premises shall not exceed the limitations for occupancy and use set forth in the New York State Uniform Fire Prevention and Building Code.
- c. The air conditioning or cooling portion of the system shall be capable of maintaining indoor conditions of not more than seventy-eight (78) degrees Fahrenheit dry-bulb and not greater than fifty percent (50%) relative humidity during the cooling design peak hour of a cooling design day. Conference, training and hearing rooms shall be capable of maintaining temperature and ventilating conditions as stated above by means of an independent thermostatic control for each room. Use of a dedicated variable air volume box will be acceptable if temperature and ventilating requirements can be maintained at full room occupancy load; otherwise a separate independent air conditioning system will be required. Outside air, tempered as required, shall be supplied for ventilation as stated in paragraph (b) above for the number of occupants calculated in accordance with the New York State Uniform Fire Prevention and Building Code (Construction Codes for locations within NYC.) for each conference, training and hearing room.
- d. Thermostatic controls in the Demised Premises shall allow the Tenant and the Occupying Agency to lower the heating set point or raise the air conditioning set point beyond the above levels if directed to do so by the Commissioner or other appropriate authority in order to conserve energy.

If the Landlord pays for heat

- e. The cost of heating fuel consumed in the Building and the Demised Premises shall be paid for by the Landlord, at its sole cost and expense. The Landlord shall also, at its sole cost and expense, pay for all costs of service and maintenance, including filter changes for the HVAC system(s) servicing the Building and the Demised Premises.

If the Occupying Agency pays for heat

- e. Fuel consumed in order to heat the Demised Premises shall be separately metered and consumption charges paid for by the Tenant, on behalf of the Occupying Agency, to the local utility firm providing such service in compliance with Article 11-A of the New York State Finance Law. It is further agreed and understood that no heating fuel, except that which is consumed for the heating of the Demised Premises, shall be measured by the metering

device or devices used to measure the consumption of heating fuel in the Demised Premises.

Notwithstanding the foregoing, the cost of fuel consumed in order to heat the common areas of the Building shall be paid by the Landlord, at its sole cost and expense. The Landlord shall also pay for all costs of service and maintenance, including filter changes for the HVAC system(s) servicing the Building and the Demised Premises.

13. BUILDING ACCESS FOR UTILITY SERVICES, TENANT AND OCCUPYING AGENCY ACCESS AND ELEVATOR SERVICE

The Landlord shall at all times provide the Tenant and the Occupying Agency with reasonably direct access from the Premises to the points of entry to the Building for all utility services usually and customarily utilized by office tenants and available at the Building, including, without limitation, telephone, electric, gas and cable (hereinafter referred to collectively as the "Utility Services").

The Tenant, or the Occupying Agency on behalf of the Tenant, shall have the right to install, use, repair, replace and maintain Utility Services between points of access to the Building and the Premises and shall have and enjoy continual rights of access, ingress and egress over the lands on which the Premises are situate, to enable the Tenant, or the Occupying Agency on behalf of the Tenant, to effectively access and use such Utility Services. These rights can be exercised by the Tenant, the Occupying Agency or utility companies or other third parties acting on behalf of the Tenant or the Occupying Agency.

To the extent necessary for access to and use of the Utility Services, the Tenant, or the Occupying Agency on behalf of the Tenant, shall have, appurtenant to the Premises, the non-exclusive right to use, in common, all necessary facilities, areas and spaces of the Building used or identified as common areas, including, without limitation, lobbies, corridors, stairways, elevators, loading docks, shafts, pipe chases, vents and ducts located in the Building or on the Premises, as the case may be.

The Landlord shall, upon the Tenant's request, afford utility companies or other third parties access to the Building and the Premises for the purpose of locating, installing and maintaining Utility Services, and the Landlord shall execute, at its expense, any and all documents, agreements and instruments in order to effectuate the same. The Tenant, or the Occupying Agency on behalf of the Tenant, shall have the right to enter into reasonable agreements with utility companies or other third parties providing Utility Services creating easements in favor of such companies and/or other third parties as are required in order to service the Premises, and the Landlord covenants and agrees to consent thereto and to execute any and all documents, agreements and instruments, and to take all other actions, in order to effectuate the same, all at the Occupying Agency's cost and expense.

No action shall be taken by the Occupying Agency pursuant to this section without the prior, written consent of the Tenant.

During the Term of this Lease, the Renewal Term, if applicable, and any extension or holdover thereof, the Landlord shall provide the Tenant and the Occupying Agency access to the

Building twenty-four (24) hours a day, seven (7) days a week, including State Legal Holidays. The Demised Premises shall be open daily from ____ A.M. to ____ P.M., Mondays through Fridays, excluding State Legal Holidays (hereinafter referred to as the "Normal Business Hours"). As used herein, the term "State Legal Holidays" shall mean the calendar of legal holidays as established and maintained by the New York State Department of Civil Service. Annual updates of the State Legal Holidays are available at <http://www.cs.ny.gov/attendance/leave/index.cfm>; once you are on the website, scroll down to *Calendars of Legal Holidays* and click on the year in question. Notwithstanding the foregoing, any day that is determined to be a floating holiday by the State shall not be considered to be a State Legal Holiday, but shall be considered to be a normal work day for the Tenant and the Occupying Agency, and the Landlord shall provide all services required to be provided by this Lease on such days.

The Landlord shall, at its expense, furnish safe and reliable elevator service at all times to the Tenant and the Occupying Agency. Variations of full-service passenger elevators, such as devices defined as limited use, limited application (LU/LA), will not be permitted unless specifically defined or specified on the drawings attached to this Lease as Exhibit 1 or the room data sheets attached to this Lease as Exhibit 1A and approved in writing by the Tenant prior to installation. In no event shall the number of elevators providing service to the Premises be fewer than the number of elevators providing service to the Premises on the Commencement Date.

14. PARKING

The Landlord shall, at its sole cost and expense, provide the Tenant with _____ (____) designated, on-site, paved parking spaces, for the exclusive use of the Tenant and the Occupying Agency, and will keep such parking spaces free of ice, snow and debris during all times that the Tenant and the Occupying Agency have access to the Building, at no additional charge to the Tenant or the Occupying Agency.

15. WATER

The Landlord shall furnish, at its own expense, hot and cold potable water from the local supply sufficient for drinking, washroom and cleaning purposes in the Demised Premises. The cost of electric current consumed in order to provide hot water to the Demised Premises shall be paid by the Tenant, on behalf of the Occupying Agency, to the local utility firm providing such service in accordance with Section 11 of this Lease.

16. JANITORIAL SERVICE

The Landlord shall, at its sole cost and expense, provide janitorial services in accordance with the provisions of this section and the specifications set forth in Schedule A annexed to and made a part of this Lease.

Governor Hochul's Executive Order 22 directs all State agencies and authorities to purchase green products and promote sustainability. EO-22, a copy of which is annexed to this Lease as Exhibit 3, directs State agencies and authorities to develop and implement specific projects, programs and policies designed to reduce the public health and environmental impacts of the activities and operations of the agency or authority, including:

the reduction or elimination of the use and generation of toxic substances, pollution and waste; the reduction, reuse, recycling and composting of solid waste; and the maximization of the use of environmentally preferable or "green" commodities, services and technology.

In an effort to assist State agencies and authorities in complying with these directives, approved specifications can be found at: <https://ogs.ny.gov/greenny-purchasing-requirements-and-tools>.

In order to comply with these directives, the Landlord and the Occupying Agency have agreed that the Landlord will make careful selection of effective janitorial cleaning products and equipment that reduce or eliminate the health and environmental risks from the use or release of toxic substances and minimize the risks of discharge of pollutants into the environment. Information on these products can be found at: <https://ogs.ny.gov/green-cleaning>.

In addition, EO-22 requires State agencies and authorities, to the maximum extent practicable, to purchase janitorial paper products that meet the specifications which can be found at: <https://ogs.ny.gov/greenny/janitorial-paper-products>. The Landlord agrees to assist the Occupying Agency in meeting these requirements by, to the maximum extent practicable, making careful selection of janitorial paper products in order to use products that comply with the requirements of EO-22.

EO-22 also requires State agencies and authorities, to reduce waste and increase recycling. Information on these requirements can be found at: <https://ogs.ny.gov/greenny/state-agency-waste-reduction-reuse-recycling>. Additional information on these requirements and EO-22 are available from OGS, upon request.

The Landlord acknowledges an understanding of these State policies and pledges to cooperate with the Tenant and the Occupying Agency in their implementation.

The Landlord and the Occupying Agency shall also comply with local recycling laws enacted under New York State General Municipal Law §120-aa, requiring that solid waste be separated into recyclable, reusable or other components.

17. PEST CONTROL

In accordance with the requirements of Executive Order 22, which is annexed hereto as Exhibit 3, the Landlord shall implement and maintain, at its sole cost and expense, an Integrated Pest Management (hereinafter referred to as the "IPM") program for the Building and the real property of which the Building and the Demised Premises form a part. The IPM program shall provide for an overall plan that minimizes the use of toxic pesticides, and provides for an on-going, practical, least-toxic approach to preventing and/or treating pest infestation and shall comply with the requirements set forth at: <https://www.ogs.ny.gov/greenny/pest-management-indoor-spaces> and <https://www.ogs.ny.gov/greenny/pest-management-outdoor-spaces>. It shall provide for technical training for the Landlord's employees directly involved in pest control; establish an inspection program to identify infested zones, type(s) of

infestation, and pest population levels; and detail procedures to be implemented should a pest infestation problem develop.

The Landlord shall initially employ non-chemical means to eliminate pest infestation, localizing treatment whenever necessary to a defined affected area, using baits and traps rather than traditional chemical applications. At a minimum, semi-annual inspections (spring and fall) shall be conducted by the Landlord or its contractor to identify and correct structural conditions allowing pests access (interior and exterior cracks, openings, crevices and ledges, etc.). The preventative measures of this IPM program shall include controls to ensure proper cleaning/maintenance, handling and disposal of food and organic waste products, and reviews of environmental conditions or practices of the Tenant or the Occupying Agency that increase the potential for pest problems.

Application of pesticides should be avoided unless subsequent inspection or monitoring indicates the continued presence of pests in a specific area after non-chemical means have been exhausted or have been found to be ineffective. An actual specimen or recent sign of the pest must be confirmed before pesticides are applied. The least toxic pesticide, of the pesticides available to treat a specific problem, shall be selected. All pesticides used must be registered with the Environmental Protection Agency and appropriate State and/or local jurisdictions and use of all pesticides shall be in strict accordance with the manufacturer's label instructions and all applicable federal, State, and local laws and regulations.

The Landlord and the Occupying Agency shall each designate an on-site liaison to review and coordinate necessary IPM program activities in the Building and the Demised Premises. The Tenant and the Occupying Agency shall be given an opportunity to review, and reasonable time to comment on the content of, and coordinate with, the schedule of events specified in the IPM program. This opportunity will be provided through notification from the Landlord prior to the implementation of the IPM program.

Pesticide and herbicide treatment(s), when necessary, shall be scheduled for late Friday afternoons or evenings unless alternative times for such treatment applications are scheduled by mutual agreement with the Occupying Agency's IPM program liaison. The Tenant and the Occupying Agency shall be notified of the location(s) of planned pesticide and herbicide treatments twenty-four (24) hours prior to such chemical application(s). The Landlord shall furnish the Occupying Agency's IPM program liaison(s) with Material Safety Data Sheets for all pesticides and herbicides prior to their use in the Building or on the real property of which the Building and the Demised Premises form a part.

18. REPAIRS

The Landlord shall take good care of the Building, the Demised Premises, and the fixtures and appurtenances thereto, and shall make all repairs necessary to put and keep the same in good order and condition, at its own cost and expense. Notwithstanding the foregoing, repairs and maintenance of the foregoing required as a result of the negligence of the Tenant and/or the Occupying Agency or their officers and employees, when acting within the course and scope of their employment, shall be performed by the Landlord, at the Tenant or the Occupying Agency's cost, as the case may be.

19. ISSUES / PROCESS

The Landlord and the Occupying Agency shall each designate an on-site representative. All issues, complaints and requests for services shall be in writing, utilizing the "Request for Lease Compliance Services" form attached to this Lease as Exhibit 4, which form shall be delivered electronically by the Occupying Agency's representative to the Landlord's representative. A copy of such form shall be returned to the Occupying Agency's representative, electronically, at such time as the issue is resolved, indicating what, if any, action was taken and, if no action was taken, the reason therefor. The Landlord's representative shall maintain a log in which shall be recorded the date and nature of the request, and the date and resolution of the request. Such log shall be available, electronically, upon request, for the Tenant and the Occupying Agency's inspection. The provisions of this section shall not be construed as superseding the other notice requirements and provisions of this Lease.

20. COMPLIANCE WITH LAWS

The Landlord shall, at its own cost and expense, ensure that the Building and the Premises comply with all applicable federal, State or local laws, rules, orders, ordinances and regulations at any time issued or in force, and the requirements of any insurance policy covering the Building, the Premises and the contents or improvements thereto, which requirements may be more restrictive than the applicable building code and/or municipal codes and laws. The Tenant and the Occupying Agency agree that they will not use the Premises for any purpose that shall violate any applicable laws, rules, orders, ordinances and regulations.

21. LANDLORD'S RIGHT OF ENTRY

The Tenant and the Occupying Agency shall permit the Landlord, at all usual and proper times, to enter the Premises for the purposes of inspection or sale, and to make repairs and improvements to all parts of the Building, and to comply with all governmental orders and requirements applicable to the Building and the Premises. The Landlord, in exercising its rights under this section, shall not unreasonably interfere with the Tenant and the Occupying Agency's access, use and occupancy of the Premises.

22. TO LET SIGNS

The Tenant and the Occupying Agency shall permit the Landlord, during the three (3) months immediately prior to the expiration of the Term, and any holdover or extension thereof, to place the usual notices of availability upon the exterior of the Demised Premises.

23. DESTRUCTION OF PREMISES AND DAMAGE TO THE TENANT'S AND/OR THE OCCUPYING AGENCY'S PROPERTY

If the Building or the Demised Premises are destroyed or so injured by fire or the elements or any cause as to render the Premises untenable or unfit for the Tenant's or the Occupying Agency's uses, as the Tenant in its sole discretion may determine, the Tenant may serve notice, in compliance with Section 51 of this Lease, declaring its intent to vacate the Premises and may thereafter, as soon as practicable subsequent to the provision of notice, quit and surrender the entire Demised Premises, in which

event Fixed Rent shall abate from the time of the destruction or injury, and the Tenant and the Occupying Agency shall be relieved of further liability under this Lease.

If, however, the Building (in the reasonable judgment of the Landlord) or the Demised Premises (in the reasonable judgment of the Tenant) shall be so destroyed or so injured by any cause aforesaid so as not to be rendered unfit for occupancy, then the Landlord shall repair the same with reasonable promptness, and in that case the Fixed Rent shall abate from the time of the destruction or injury until the completion of such repair period, except only that the Tenant, on behalf of the Occupying Agency shall, during such time, pay a pro-rata portion of such Fixed Rent apportioned to that portion of the Demised Premises that are in a condition for occupancy or that may be actually occupied during such repair period.

All improvements or betterments placed by the Tenant or the Occupying Agency in the Demised Premises shall, however, in any event, be repaired and/or replaced by the Tenant or the Occupying Agency at their own expense and not at the expense of the Landlord, provided that the injury and damage to such improvements or betterments was caused without the negligence or willful misconduct of the Landlord, its officers, agents, employees or contractors. In the event that such injury or damage was caused through the negligence or willful misconduct of the Landlord or its officers, agents, employees or contractors, the Landlord shall be responsible for the cost to repair or replace the same, as determined by the Parties.

If the Demised Premises are destroyed or damaged by fire or the elements or by any other cause, the Tenant shall notify the Landlord with reasonable promptness, in compliance with Section 51 of this Lease.

In the event the Premises are so damaged or destroyed as above described, any advance Fixed Rent paid by the Tenant, on behalf of the Occupying Agency, to the Landlord shall be apportioned to the date of the damage or destruction and the difference promptly returned by the Landlord to the Tenant, on behalf of the Occupying Agency.

Notwithstanding the provisions of this section to the contrary, neither the Landlord nor its officers, employees, agents or contractors shall be liable for any damage to the Tenant's or the Occupying Agency's personal property, nor for loss of or damage to the Tenant's or the Occupying Agency's personal property by theft or otherwise, nor for any injury or damage to persons or the Tenant's or the Occupying Agency's personal property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Premises or adjoining buildings or from the pipes, appliances or plumbing works therein or from the roof, street or sub-surface or from any other place or resulting from dampness or any other cause whatsoever, unless the same is caused by the negligence or willful misconduct of the Landlord or its officers, employees, agents or contractors or the Landlord's breach of this Lease. In addition to the foregoing, in the event of any damage discussed in this paragraph, the Tenant and the Occupying Agency retain the right to avail themselves of all remedies available to them at law, in equity or pursuant to any available insurance.

This section shall be deemed an "express agreement to the contrary" within the meaning of Section 227 of the New York State Real Property Law.

24. SET OFF

In the event the Landlord refuses or fails to make repairs or to provide services for which it is responsible under the terms and conditions of this Lease, the Tenant shall provide at least five (5) business days' written notice to the Landlord in compliance with Section 51 of this Lease. After the expiration of such five (5) business day notice period, provided that the Landlord has failed to initiate a solution that is reasonable to the Tenant, the Tenant may, at its sole option, either: (i) make such repairs or provide such services, and the Tenant, on behalf of the Occupying Agency, may deduct all the costs incurred thereby from the Fixed Rent which is or shall be owing to the Landlord; or (ii) not make such repairs nor provide such services and the Tenant, on behalf of the Occupying Agency, may deduct from said Fixed Rent a reasonable amount for the diminution in the value of the Premises due to such disrepair or lack of services. The provisions of this section are in addition to, and not in lieu of, any and all rights and remedies available to the Tenant at law or in equity.

25. MITIGATION OF DAMAGES

In the event the Tenant quits the Demised Premises such that the Tenant, on behalf of the Occupying Agency, or the Occupying Agency remains responsible for the payment of Fixed Rent to the Landlord, the total Fixed Rent to be paid to the Landlord shall be reduced by that portion of the Fixed Rent attributable to charges for Utility Services, as the same are defined in Section 13 of this Lease, and other services that the Landlord is obligated to provide pursuant to the terms of this Lease, whether or not such charges have been itemized.

Furthermore, in the event the Tenant shall so quit the Premises, the Landlord shall be obligated to make all reasonable efforts to re-let the Demised Premises in order to cover the costs otherwise accruing to the Tenant and/or the Occupying Agency. The Landlord shall not, in any event, be required to pay the Tenant or the Occupying Agency any surplus of any sums received by the Landlord on a re-letting of said Premises in excess of the Fixed Rent reserved in this Lease.

26. SUBORDINATION

This Lease is subject and subordinate to all ground or underlying leases, and to all mortgages that may now or hereafter affect such leases, or the real property of which the Building and the Demised Premises form a part, and to all renewals, modifications, consolidations, replacements and extensions thereof. However, no property owned or removable by the Tenant or the Occupying Agency shall be subject to the lien of paramount mortgages. This provision shall be self-operative, and no further instrument of subordination shall be required by any mortgagee. In confirmation of such subordination, however, the Tenant shall, upon the reasonable request of the Landlord, promptly execute a certificate to such effect, in a format that is acceptable to the Tenant.

This Lease shall be subject and subordinate to the lien of any future mortgage or any future underlying lease, provided that the holder of any such mortgage or the landlord under any such underlying lease shall agree in the mortgage or lease, or otherwise, that this Lease shall not be terminated or otherwise affected by the enforcement of any such mortgage or underlying lease, provided that, at the time thereof, the Tenant shall not be in default, and the Tenant, when requested by the holder of such mortgage, or the landlord, under any such underlying lease, shall execute an attornment agreement, in a format that is acceptable to the Tenant, to the holder of such mortgage, or the landlord, under any such underlying lease, should either succeed to the rights of the Landlord under this Lease.

Copies of the estoppel agreement and subordination, non-disturbance and attornment agreement utilized by the Tenant can be obtained through a written request to the Tenant pursuant to Section 51 of this Lease. When making such requests, the Landlord should allow ample time for the review and execution of such forms by the Tenant.

27. QUIET ENJOYMENT

The Landlord covenants with the Tenant that the Tenant and the Occupying Agency, on complying with the terms of this Lease, shall and may peacefully and quietly have and enjoy the said Premises.

28. NUISANCE CONTROL

The Landlord shall adopt, promulgate and enforce building rules and regulations for the Building that shall proscribe the maintenance or occurrence of nuisances including, but not limited to, noise, dust, vibration, odors or other unreasonable impacts or infringements upon the Tenant's or the Occupying Agency's use and enjoyment of the Premises. In addition, the Landlord shall promptly take such other measures as are reasonable and within its control to enjoin, curtail, eliminate or proscribe any such nuisances resulting from the acts of non-tenants.

29. CONDITION OF PREMISES

The Tenant and the Occupying Agency shall, at the end of the Term, and any holdover or extension thereof, quit and surrender the Demised Premises in as good order and condition as when received, normal wear and tear and damage by the elements, including fire, excepted.

30. NEW LANDLORD / NON-ASSIGNMENT

Pursuant to Section 138 of the New York State Finance Law, the Landlord is prohibited from assigning, transferring, conveying, sub-letting or otherwise disposing of this Lease, or its right, title or interest therein, or its power to execute this Lease to another person, company or corporation without the previous consent in writing of the department or official awarding the same; provided, however, any consent shall not be unreasonably withheld, conditioned, delayed or denied. Therefore, prior to any such transfer, the Landlord shall submit a request, in accordance with Section 51 of this Lease, to the Tenant for consent to the same. The Landlord's request shall include submission of a properly completed and executed Lease Assignment Agreement, a sample of which is attached to this Lease as Exhibit 5, all

necessary documentation and the NYS Vendor Responsibility Questionnaire (VRQ), which may be found on the Office of the New York State Comptroller's website at <https://www.osc.state.ny.us/state-vendors/vendrep/file-your-vendor-responsibility-questionnaire?redirect=legacy>. A Lease Assignment Agreement may be obtained through a written request made in accordance with the provisions of Section 51 of this Lease. The consent required by this section shall not be unreasonably withheld, conditioned or delayed. When making such requests, the Landlord should allow ample time for the review and approval of the same by the Tenant, the New York State Attorney General, as to form, and the Office of the New York State Comptroller.

In addition, in the event that the Landlord changes its name, but not its federal identification number, the Landlord is required to notify the Tenant and the Occupying Agency of the change within ten (10) business days of the effective date of such change by submitting written notification to the Tenant in accordance with Section 51 of this Lease. The Landlord shall also be responsible for making all necessary changes to its profile in the Statewide Financial System by contacting the Statewide Financial System Vendor Management Unit. The web address for the Statewide Financial System is: <https://esupplier.sfs.ny.gov/psp/fscm/SUPPLIER/?cmd=login>.

31. BROKERAGE FEES / UNLAWFUL INDUCEMENT

- A. The Landlord warrants that no person or selling agency other than _____, whose fees will be paid by the Landlord pursuant to a separate agreement between the Landlord and _____, has been employed or retained by the Landlord to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage, contingent fee or other compensation. The Tenant warrants to the Landlord that it did not consult or negotiate with any broker or finder with regard to the Premises and that no broker, finder or consultant participated with the Tenant in procuring this Lease.
- B. The Landlord, for itself, its agents, employees, and as the case may be, its directors, officers, managers, members or partners (limited or general), represents and warrants to the Tenant, after its due inquiry, and for the express purpose of inducing the Tenant's reliance upon such representation and warrant, that neither the Landlord, its agents, employees, nor, as the case may be, its directors, officers, managers, members or partners (limited or general) has made any payment or given any good, service or other thing of value or made any promise or representation that it will make any future payment or give any good, service or other thing of value, to entice the Tenant to enter into this Lease, and further that upon its due inquiry, neither the Landlord nor any agent, employee or, as the case may be, any director, officer, manager, member or partner (limited or general) has been solicited by any person to give, now or in the future, any good, service, payment or other thing of value for the purpose of securing this Lease, excepting from such solicitation the ethical actions of licensed real estate brokers whose identity has been disclosed in this Lease. The Landlord makes this representation and warranty under penalty of

perjury and expressly agrees that a false representation and warranty herein will be deemed to, and will in fact constitute fraud, in the inducement of the Tenant to enter into this Lease.

32. LANDLORD'S INTEREST

The Landlord represents that it owns the Demised Premises in fee simple absolute or leases it for a period exceeding the Term set forth in Sections 2 and 7 of this Lease, the Renewal Term, as applicable, and any holdover or extension thereof. The Landlord shall provide the Tenant with a copy of underlying and ground leases and any amendments thereto, prior to the execution of this Lease by the Tenant and upon request thereafter.

33. ALTERATIONS BY TENANT

It is understood and agreed by and between the Parties that during the Lease Term, the Renewal Term, if applicable, and any extension or holdover thereof, the Tenant and the Occupying Agency reserve the right to make minor alterations or installations, including, but not limited to, carpeting, security equipment features, data or telephone installations and the installation of related equipment.

34. ALTERATIONS BY LANDLORD

As to any alterations or improvements, other than those allowed for in Section 33 of this Lease, that may subsequently be required by the Occupying Agency, the Landlord shall provide the Tenant with cost estimates based upon the Tenant's written requirements and/or drawings (concept drawings) for the work to be performed. The Landlord shall provide the written cost estimates to the Tenant within fifteen (15) days after receipt of the Tenant's concept drawings.

Written cost estimates shall be accompanied by an itemized description of the work that shall include the following:

- an itemized description of work elements;
- quantities;
- material unit cost;
- total material unit cost;
- labor unit cost;
- total labor unit cost;
- total material and labor unit cost;
- summary of total material and labor unit cost; and
- architectural and engineering fees and permit fees.

Cost estimates shall be submitted by the Landlord to the Tenant on the Landlord's letterhead, in accordance with Section 51 of this Lease, and shall be accompanied by satisfactory written substantiation justifying the cost estimates, such as vendor/contractor estimates. The costs shall be competitive, consistent with the costs in an arm's-length transaction and employ labor at rates that do not exceed the applicable prevailing wage rates.

The total of any additional fees charged by the Landlord and/or any construction manager employed by the Landlord attributable to overhead, profit or management fees shall be limited to the following percentages of the total direct labor and

material costs: ten percent (10%) of the first \$10,000.00, five percent (5%) of the next \$90,000.00 and three percent (3%) of any sum in excess of \$100,000.00.

Upon written approval of the cost estimate by the Tenant, the Landlord shall promptly proceed with the subject alterations or improvements. In the event the Tenant does not approve the cost estimate, the Tenant may submit a reduced scope of work to achieve cost savings. In the event the Landlord and the Tenant cannot agree on the cost of the work, the Tenant may contract directly for such work provided, however, that any Tenant-selected contractors shall be subject to the Landlord's reasonable approval, and in no event shall such work involve structural alterations or the modification of building-wide systems. Payment for work performed in accordance with this section shall be made by the Tenant, on behalf of the Occupying Agency in compliance with Article 11-A of the New York State Finance Law, upon completion of the work to the satisfaction of the Tenant, and the Landlord's submission of proper invoices to the Tenant. Notwithstanding the foregoing, in the event that this Lease provides an allowance for Tenant work, the cost of work performed pursuant to this section may be deducted from such allowance following the Tenant's approval of invoices for the work, subject to compliance with all other applicable provisions of this section and this Lease.

35. HAZARDOUS MATERIALS

The Landlord represents and warrants, as an inducement to encourage the Tenant's initial and continued tenancy and the Occupying Agency's initial and continued occupation of the Demised Premises, and as a material term of this Lease, that the Demised Premises and the Building are free from hazard, particularly with reference to the United States Department of Labor, Occupational Safety and Health Administration Standards for permissible exposure limits to hazardous materials including but not limited to asbestos, lead, PCBs, mold, animal droppings and mercury.

The Landlord further represents that, immediately upon the discovery of any hazardous materials within or about the Demised Premises or the Building, the Landlord shall give written notice, in compliance with Section 51 of this Lease, to the Tenant and the Occupying Agency of the existence of such materials, and shall, at its sole cost and expense, take any and all reasonable steps necessary to completely remove said hazardous materials in full compliance with all applicable federal, State, municipal or local laws, rules, or regulations relating to the removal of such hazardous materials.

Notwithstanding any provision of this Lease or any rider or addendum to this Lease, the Landlord agrees that each and every breach of any warranty or representation contained in this section, without regard to any measure of the magnitude of the breach, shall constitute a default under this Lease that shall entitle the Tenant and the Occupying Agency, in addition to all other rights and remedies available to the Tenant or the Occupying Agency, to deduct from the Fixed Rent or other monetary obligation of the Tenant or the Occupying Agency, or to recover by action, all costs, whether direct or indirect, resulting from any cause whatsoever, incurred by the Tenant or the Occupying Agency as a result of such breach.

36. SIGNAGE

The Tenant and the Occupying Agency may post and maintain such signs and notices as reasonably required to inform the public as to their location in the Building, and shall have a right to have their name and other pertinent information on the Landlord's lobby directory board.

37. INSURANCE REQUIREMENTS

Prior to the Commencement Date of this Lease, the Landlord shall be required to procure, at its sole cost and expense, all insurance required by this section. During the Term of this Lease, the Renewal Term, if applicable, and any holdover or extension thereof, the Landlord shall maintain in force, at its sole cost and expense policies of insurance as required by this section. All insurance required by this section shall be written by companies that have an A.M. Best Company rating of "A-," Class "VII" or better. In addition, companies writing insurance intended to comply with the requirements of this section should be licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York. OGS may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company's strong financial rating. If, during the term of a policy, the carrier's A.M. Best rating falls below "A-," Class "VII," the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above.

The Landlord shall deliver to the Tenant evidence of the insurance required by this section in a form acceptable to the Tenant. Policies must be written in accordance with the requirements of the paragraphs below, as applicable. Acceptance and/or approval by the Tenant does not, and shall not be construed to, relieve the Landlord of any obligations, responsibilities or liabilities under this Lease.

The Landlord shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the Term of this Lease, the Renewal Term, if applicable, and any holdover or extension thereof.

General Conditions

A. Conditions Applicable to Insurance. All policies of insurance required by this section shall comply with the following requirements:

1. **Coverage Types and Policy Limits.** The types of coverage and policy limits required from the Landlord are specified below in Paragraph B-*Insurance Requirements*.

2. **Policy Forms.** Except as otherwise specifically provided herein, or agreed to in writing by the Tenant, all policies of insurance required by this section shall be written on an occurrence basis.

3. **Certificate of Insurance/Notices.** The Landlord shall provide the Tenant with a Certificate or Certificates of Insurance, in a form satisfactory to the Tenant (i.e., an ACORD certificate), prior to the Commencement Date, and thereafter, pursuant to the timelines set forth in Section A.13. below. Certificates shall

reference the Lease number and shall name The New York State Office of General Services, Division of Real Estate, Leasing Services, The Governor Nelson A. Rockefeller Empire State Plaza, Corning Tower, 40th Floor, Albany, New York 12242 as the certificate holder.

Certificates of Insurance shall:

- Be in the form acceptable to the Tenant and in accordance with the New York State Insurance Law (i.e.: an ACORD Certificate);
- Disclose any deductible, self-insured retention, aggregate limit or exclusion to the policy that materially changes the coverage required by this Lease;
- Be signed by an authorized representative of the referenced insurance carriers; and
- Contain the following language in the Description of Operations/Locations/Vehicles section: Additional insured protection afforded is on a primary and non-contributory basis. A waiver of subrogation is granted in favor of the additional insureds.

Only original documents (Certificate(s) and any endorsements and other attachments) or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted.

The Tenant has not requested that the Landlord submit copies of its entire insurance policies. The Tenant only requests specific documentation regarding proof of insurance coverage, such as certificates and endorsements. The Landlord is asked to refrain from submitting entire insurance policies. If an entire insurance policy is submitted but not requested, the Tenant and the Occupying Agency shall not be obligated to review and shall not be chargeable with knowledge of its contents. In addition, submission of an entire insurance policy not requested by the Tenant does not constitute proof of compliance with the insurance requirements and does not discharge the Landlord from submitting the insurance documentation required by this section. The Tenant reserves the right to request other proof of insurance, including, but not limited to, policies, and the Landlord agrees to comply with all reasonable requests.

4. **Primary Coverage.** All liability insurance policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the Tenant and the Occupying Agency. Any other insurance maintained by the Tenant or the Occupying Agency shall be excess of and shall not contribute with the Landlord's insurance.

5. **Breach for Lack of Proof of Coverage.** The Term of this Lease shall not commence if the coverage provisions and limits of the policies provided by the Landlord do not meet the provisions and requirements of this section or proof of compliance is not provided to the Tenant. In addition, the failure to comply with the requirements of this section at any time during the Term of this Lease, the Renewal Term, if applicable, and any holdover or extension thereof, shall be considered a breach of the terms of this Lease and shall allow the Tenant to avail itself of all remedies available under this Lease, at law or in equity.

6. **Self-Insured Retention/Deductibles.** Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured

retentions above \$100,000.00 are subject to approval from the Tenant. Such approval shall not be unreasonably withheld, conditioned or delayed. The Landlord shall be solely responsible for all claim expenses and loss payments within the deductibles or self-insured retentions. If the Landlord is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request.

7. **Subcontractors.** Prior to the commencement of any work by a subcontractor, the Landlord shall require such subcontractor to procure policies of insurance that comply with the requirements of this section and maintain the same in force during the term of any work performed by that subcontractor. An Additional Insured Endorsement CG 20 38 12 19 (or the equivalent) evidencing such coverage shall be provided to the Landlord prior to the commencement of any work by a subcontractor, pursuant to the timelines set forth in Section A.13., as applicable, and shall be provided to the Tenant upon request. For subcontractors that are self-insured, the subcontractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the subcontractor would have been required to pursuant to this section had the subcontractor obtained such insurance policies.

8. **Waiver of Subrogation.** The Landlord shall cause to be included in its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the Landlord's right of subrogation against The People of the State of New York, The New York State Office of General Services, The (Occupying Agency's name) and their officers, agents, and employees, or, if such waiver is unobtainable provide one of the following to the Tenant prior to the Commencement Date of this Lease: (i) an express agreement that such policy shall not be invalidated if the Landlord waives or has waived before the casualty, the right of recovery against The People of the State of New York, The New York State Office of General Services, The (Occupying Agency's name) and their officers, agents, and employees or (ii) any other form of permission for the release of The People of the State of New York, The New York State Office of General Services, The (Occupying Agency's name) and their officers, agents, and employees. A Waiver of Subrogation Endorsement shall be provided upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.

9. **Additional Insured.** The Landlord shall cause to be included in each of the liability policies required below for all work and operations naming as additional insured (via ISO form CG 20 26 12 19 and form CA 20 48 10 13, or a form or forms that provide equivalent coverage): The People of the State of New York, The New York State Office of General Services, The (Occupying Agency's name) and their officers, agents, and employees. An Additional Insured Endorsement, or the equivalent, evidencing such coverage shall be provided to the Tenant prior to the Commencement Date and pursuant to the timelines set forth in Section A.13. below. A blanket Additional Insured Endorsement CG 20 38 12 19 (or the equivalent) evidencing such coverage is also acceptable. For landlords that are self-insured, the Landlord shall be obligated to defend and indemnify the above-named additional

insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that the Landlord would have been required to pursuant to this section had the Landlord obtained such insurance policies.

10. **Excess/Umbrella Liability Policies.** Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of Underlying Insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form, must be provided upon request.

11. **Notice of Cancellation or Non-Renewal.** Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five (5) business days of receipt of any notice of cancellation or non-renewal of insurance, the Landlord shall provide the Tenant with a copy of any such notice received from an insurer together with proof of replacement coverage that complies with the requirements of this section.

12. **Policy Renewal/Expiration.** Upon policy renewal/expiration, evidence of renewal or replacement of coverage that complies with the requirements of this section shall be delivered to the Tenant. If, at any time during the Term of this Lease, the Renewal Term, if applicable, and any extension or holdover thereof, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this section, or proof thereof is not provided to the Tenant, the Tenant and the Occupying Agency shall have the right to avail themselves of all remedies available under this Lease, at law or in equity.

13. **Deadlines for Providing Insurance Documents after Renewal or Upon Request.** As set forth herein, certain insurance documents must be provided to the Tenant after renewal or upon request. This requirement means that the Landlord shall provide the applicable insurance document to the Tenant as soon as possible but in no event later than the following time periods:

- For certificates of insurance: five (5) business days from request or renewal;
- For information on self-insurance or self-retention programs: fifteen (15) calendar days from request or renewal;
- For other requested documentation evidencing coverage: fifteen (15) calendar days from request or renewal;
- For additional insured and waiver of subrogation endorsements: thirty (30) calendar days from request or renewal; and
- For notice of cancellation or non-renewal and proof of replacement coverage that complies with the requirements of this section: five (5) business days from request or renewal.

Notwithstanding the foregoing, if the Landlord shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to the Tenant, the Tenant shall extend the time periods set forth above for a reasonable period, that shall in no event exceed thirty (30) calendar days from request or renewal, whichever is later.

B. Insurance Requirements: The Landlord shall, at its own expense, obtain and maintain in full force and effect during the Term of this Lease, the Renewal Term, if applicable, and any extension or holdover thereof, the following insurance with limits not less than those described below, or as required by law, whichever is greater:

Insurance Type		Proof of Coverage is Due
Commercial General Liability	Not less than \$5,000,000 each occurrence	Prior to the Commencement Date, upon renewal and upon request.
General Aggregate	\$10,000,000	
Products - Completed Operations Aggregate	\$5,000,000	
Personal and Advertising Injury	\$1,000,000	
Damage to Rented Premises	\$50,000	
Medical Expenses Limit	\$5,000	
Business Automobile Liability Insurance	Not less than \$1,000,000 each occurrence	
Commercial Property Insurance	Not less than the Full Insurable Value	

1. **Commercial General Liability Insurance:** Such liability shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage and shall cover liability arising from premises operations, independent contractors, products-completed operations, bodily injury, property damage and broad form contractual liability coverage, personal & advertising injury cross liability coverage, and liability assumed in a contract (including the tort liability of another assumed in a contract).

Coverage shall include, but not be limited to, the following:

- Premises liability;
- Independent contractors;
- Blanket contractual liability, including tort liability of another assumed in a contract;
- Defense and/or indemnification obligations, including obligations assumed under this Lease; and
- Cross liability for additional insureds.

If at any time during the Term of this Lease, the Renewal Term, if applicable, and any holdover or extension thereof, the Landlord conducts operations at more than one location, the policy shall contain an endorsement to the effect that the general aggregate limit in the policy shall apply separately to each location operated by the Landlord.

2. **Comprehensive Business Automobile Liability Insurance:** Such insurance shall cover liability arising out of automobiles used in connection with performance under this Lease, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license

plates. If performance under this Lease shall require the removal of hazardous waste from the Building or the Demised Premises or other transporting of hazardous materials, pollution liability coverage for covered autos shall be provided by Form CA 9 48 03 06 or Form CA 00 12 03 06 and the Motor Carrier Act Endorsement (MCS90) shall be attached to the policy.

In the event that the Landlord does not own, lease or hire any automobiles used in connection with performance under this Lease, the Landlord does not need to obtain Comprehensive Business Automobile Liability Insurance, but must attest to the fact that the Landlord does not own, lease or hire any automobiles used in connection with performance under this Lease on a form provided by the Tenant. If, however, during the Term of this Lease, the Renewal Term, if applicable, and any holdover or extension thereof, the Landlord acquires, leases or hires any automobiles that will be used in connection with performance under this Lease, the Landlord must obtain Comprehensive Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage to the Tenant within ten (10) days following the date the coverage is bound.

3. **Commercial Property Insurance:** Such insurance shall cover the Demised Premises in an amount not less than the Full Insurable Value of the Demised Premises covering, at a minimum, the perils insured under the ISO Special Causes of Loss Form CP 10 30, or the equivalent, including coverage for loss caused by enforcement of ordinances or laws to the extent it is commercially available. Full Insurable Value shall mean actual replacement cost of the real property (exclusive of the cost of non-insurable portions thereof, such as excavation, foundations and footings).

The Occupying Agency shall receive a copy of all submissions made to the Tenant in compliance with this section at the following address: (Occupying Agency's name and address).

38. WORKERS' COMPENSATION INSURANCE & DISABILITY BENEFITS COVERAGE

Sections 57 and 220 of the New York State Workers' Compensation Law require the heads of all municipal and State entities to ensure that businesses applying for leases, permits, licenses or contracts have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original issuances and renewals, whether the governmental agency is having the work done or is simply issuing the lease, permit, license or contract. **Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of this Lease.** Therefore, prior to the Commissioner executing this Lease, the Landlord must submit proof to the Tenant that it has workers' compensation and disability benefits coverage as required by the New York State Workers' Compensation Law, or proof that it is legally exempt from obtaining such coverage in compliance with the New York State Workers' Compensation Law. Proof of compliance must be submitted on one of the forms designated by the New York State Workers' Compensation Board. **An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.**

Breach for lack of proof of coverage: The Term of this Lease shall not commence if the coverage provisions and limits of the policies provided by the Landlord do not meet the provisions and

requirements of the New York State Workers' Compensation Law or proof of compliance is not provided to the Tenant. In addition, the failure to comply with the requirements of this section at any time during the Term of this Lease, the Renewal Term, if applicable, and any holdover or extension thereof, shall be considered a breach of the terms of this Lease and shall allow the Tenant to avail itself of all remedies available under this Lease, at law or in equity.

Prior to the commencement of any work by a subcontractor, the Landlord shall require such subcontractor to comply with the requirements of this section and maintain the same during the term of any work performed by that subcontractor.

Proof of Compliance with the Workers' Compensation Coverage Requirements:

In order to provide proof of compliance with the requirements of the New York State Workers' Compensation Law pertaining to workers' compensation coverage, the Landlord shall provide one of the following forms to the Tenant prior to execution of this Lease by the Commissioner:

- A) Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the New York State Workers' Compensation Board's website (www.businessexpress.ny.gov);
- B) Form C-105.2 (9/07), *Certificate of Workers' Compensation Insurance*, sent to the Tenant by the Landlord's insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, it will provide Form U-26.3 to the Tenant upon request;
- C) Form SI-12, *Certificate of Workers' Compensation Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office, or Form GSI-105.2, *Certificate of Participation in Workers' Compensation Group Self-Insurance*, available from the Landlord's Group Self-Insurance Administrator.

Proof of Compliance with the Disability Benefits Coverage Requirements:

In order to provide proof of compliance with the requirements of the New York State Workers' Compensation Law pertaining to disability benefits, the Landlord shall provide one of the following forms to the Tenant prior to execution of this Lease by the Commissioner:

- A) Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the New York State Workers' Compensation Board's website (www.businessexpress.ny.gov);

- B) Form DB-120.1, *Certificate of Disability Benefits Insurance*, sent to the Tenant by the Landlord's insurance carrier upon request; or
- C) Form DB-155, *Certificate of Disability Benefits Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office.

Information clarifying the New York State Workers' Compensation Law requirements is available at the New York State Workers' Compensation Board's website, <http://www.wcb.ny.gov/content/main/Employers/requirements-businesses-applying-government-permits-licenses-contracts.pdf>.

Proof of compliance shall be submitted to The New York State Office of General Services, Director, Division of Real Estate, Leasing Services, The Governor Nelson A. Rockefeller Empire State Plaza, Corning Tower, 40th Floor, Albany, New York 12242. The Occupying Agency shall receive a copy of all submissions made to the Tenant in compliance with this section at the following address: (Occupying Agency's name and address). The Landlord shall notify The New York State Office of General Services, Director, Division of Real Estate, Leasing Services, The Governor Nelson A. Rockefeller Empire State Plaza, Corning Tower, 40th Floor, Albany, New York 12242 at least thirty (30) days prior to material change or cancellation of such coverage.

39. AUTOMATED EXTERNAL DEFIBRILLATORS

The Landlord covenants and agrees to cooperate with the Tenant and the Occupying Agency with regard to the installation of Automated External Defibrillators (AEDs) within the Demised Premises that comply with all applicable laws, rules, regulations and orders, at the Occupying Agency's expense.

40. FIRE EXTINGUISHERS

The Landlord, at its own cost and expense, shall provide, test and maintain, the fire extinguishers in the Premises and elsewhere throughout the Building. The types of extinguishers provided and their locations, testing and maintenance shall, at all times during the Lease Term, comply with the standards of the Occupational Safety and Health Administration of the United States Department of Labor, as such standards are contained in Title 29 of the Code of Federal Regulations at Section 1910.157, as the same shall be amended from time to time, unless State statutes or local ordinances impose stricter requirements, in which event the Landlord shall comply with the strictest requirements. All fire extinguisher installations shall be done in compliance with the New York State Uniform Fire Prevention and Building Code and the Americans with Disabilities Act Accessibility Guidelines (hereinafter referred to as the "ADAAG").

41. REDECORATION

Either as part of the Landlord's Work, as that term is defined in Section 43 and Schedule B of this Lease, or in addition to the Landlord's Work, the Landlord shall, without cost to the Tenant or the Occupying Agency, completely redecorate the entire Demised Premises, as set forth in this section, at the Commencement Date, or, if the Commencement Date has passed, at the time the Landlord receives a fully executed copy of this Lease, and again at five (5) year intervals during the Term and any Renewal Term.

Notwithstanding the foregoing, heavily used areas such as hallways, waiting rooms, common areas and facilities used by visitors shall be redecorated at two and one-half (2 ½) year intervals during the Term and any Renewal Term, holdover or extension thereof. All plaster surfaces, wall and trim surfaces ordinarily painted, shall be painted in adequate coats of architectural quality latex paint, eggshell finish (Benjamin Moore or equal), not to exceed 150 grams/liter Volatile Organic Compound (VOC), in colors to be selected by the Tenant and/or the Occupying Agency. Wood surfaces shall be cleaned and refinished with clear water-based urethane (Benjamin Moore or equal), not to exceed 150 grams/liter VOC. In addition, any vinyl-covered walls, or walls ordinarily cared for by washing, shall be washed to present a clean, finished appearance. All work performed under this section shall be done outside of Normal Business Hours, as the same are defined in Section 13 of this Lease, if so requested by the Occupying Agency, at no additional cost to the Tenant or the Occupying Agency.

42. GENERAL PROVISION AS TO REMEDIES

- a. The Landlord, Tenant and the Occupying Agency may exercise their respective rights and remedies at any time, in any order, to any extent, and as often as deemed advisable, without regard to whether the exercise of one right or remedy precedes, concurs with, or succeeds, the exercise of another.
- b. A single or partial exercise of a right or remedy by the Landlord, Tenant and/or the Occupying Agency shall not preclude a further exercise of the right or remedy or the exercise of another right or remedy from time to time.
- c. No delay or omission in exercising a right or remedy by the Landlord, Tenant and/or the Occupying Agency shall exhaust or impair the right or remedy or constitute a waiver of, or acquiescence to, an event of default.
- d. No waiver of an event of default by the Landlord or the Tenant shall extend to or affect any other event of default or impair any right or remedy with respect to an event of default.
- e. No action (including the payment or acceptance of Fixed Rent or additional rent) or inaction shall constitute a waiver of an event of default.
- f. No waiver of any event of default shall be effective, unless it is in writing.
- g. The payment of Fixed Rent or additional rent shall not be construed as a waiver of any claim the Tenant or the Occupying Agency may have against the Landlord.
- h. The rights and remedies granted hereunder are cumulative, and are not in lieu of, but are in addition to, and shall not be affected by the exercise of any other remedy or right now or hereafter existing at law or in equity.
- i. The New York State Court of Claims Act (McKinney's Consolidated Laws of New York) sets forth the exclusive

jurisdiction of the New York State Court of Claims to render judgment of such sums as should be paid by the State. Nothing herein shall be interpreted or construed to limit, waive or nullify the rights of the State existing by virtue of its sovereign status.

43. WORK LETTER

The Landlord's Work or the Work to be performed at the Building and in the Premises is set forth in Schedule B annexed to and made a part of this Lease.

44. LANDLORD'S CONSENT

Whenever the Landlord's consent is required under any provisions of this Lease such consent shall not be unreasonably withheld, conditioned or delayed.

45. SECTIONAL HEADINGS

The sectional headings as to the contents of particular sections herein are inserted only for convenience and are not to be construed as a part of this Lease or as a limitation of the scope of the particular section to which they refer.

46. BINDING EFFECT

This Lease shall be binding upon the Parties and their respective successors and assigns. The submission of any unexecuted copy of this Lease shall not constitute an offer to be legally bound by the provisions of the document submitted. No Party shall be bound by this Lease until it (i) is executed by all necessary Parties; (ii) has been approved as to form by the Office of the Attorney General; (iii) has been approved by the Office of the New York State Comptroller; and (iv) has actually been delivered by the Tenant to the Landlord. This Lease may be executed in counterparts, and each counterpart constitutes an original document, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

47. INTERPRETATION

- a. A provision of this Lease that requires a Party to perform an act shall, if required, be construed so as to require the Party to cause the act to be performed. A provision of this Lease that prohibits a Party from performing an act shall, if required, be construed as to prohibit the Party from permitting others within its control to perform the act.
- b. Each Party shall be deemed to be required to perform each of its obligations under this Lease at its own expense, except to the extent, if any, that this Lease specifies otherwise.
- c. This Lease shall be governed by the laws of the State of New York.
- d. All prior agreements of the Parties are merged into this Lease and neither Party is relying upon prior statements or representations.

- e. If any provision of this Lease shall be invalid or unenforceable, the remainder of this instrument shall remain in full force and effect.
- f. Words of masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall indicate otherwise, words importing persons shall include firms, associations and corporations, including public bodies as well as natural persons.
- g. The terms "hereby," "hereof," "hereto," "herein," "hereunder," and any similar terms, as used in this Lease, refer to this Lease.
- h. Unless otherwise specifically set forth herein, the term "day" shall refer to a calendar day, including Saturdays, Sundays and State Legal Holidays, as that term is defined in Section 13 of this Lease.

48. REMOVAL OF PERSONAL PROPERTY

Any and all articles of personal property, including, without limitation, business and trade fixtures, machinery, equipment, cabinet work, furniture, movable partitions, carpeting and water coolers, owned or installed by the Tenant or the Occupying Agency are and shall remain the property of the Tenant or the Occupying Agency, and may be removed by them at any time during the Lease Term, Renewal Term, or any holdover or extension thereof, but the Tenant or the Occupying Agency shall not be required to remove them at the end of the Lease Term, Renewal Term, or any extension or holdover thereof unless they so elect, provided that if such business and trade fixtures, machinery, equipment, cabinet work, furniture, movable partitions, carpeting, and water coolers are removed, the cost of repairing any damage to the Building arising from such removal shall be paid by the Tenant, on behalf of the Occupying Agency.

49. NO DEVIATIONS

The Commissioner or her designees are the only individuals on behalf of the Tenant authorized to allow any deviations from the provisions of this Lease, including substitutions for, or additions to, items of construction or alterations, or to commit the State in any way, and the Occupying Agency is not designated for this purpose. All requests for deviations from the provisions of this Lease shall be made to the Tenant in compliance with the notice provisions contained in Section 51 of this Lease.

50. MERGER

This Lease and the appendix, exhibit(s) and schedule(s) attached hereto constitute the entire agreement of the Parties on the subject matter hereof. No representations or promises have been made with respect to the Demised Premises other than those contained herein or as may be contained in any rider, schedule, appendix or exhibit attached to, and made a part of, this Lease. The Landlord agrees that no representations or warranties shall be binding upon the State unless expressed in writing in this Lease Agreement. This Lease may not be changed or canceled orally. Unless otherwise allowed for in this Lease, all modifications to this Lease shall not be effective until the same are memorialized in a Lease Modification Agreement that (i) is executed by all

necessary Parties; (ii) has been approved as to form by the Office of the Attorney General; (iii) has been approved by the Office of the New York State Comptroller; and (iv) has actually been delivered by the Tenant to the Landlord.

51. NOTICE

Any notice by the Tenant to the Landlord shall be deemed to be duly given if mailed by certified mail, addressed to the Landlord at the following address: _____. Any notice by the Landlord to the Tenant shall be deemed to be duly given if mailed by certified mail addressed to The New York State Office of General Services, Director, Lease Management, Division of Real Estate, Leasing Services, The Governor Nelson A. Rockefeller Empire State Plaza, Corning Tower, 40th Floor, Albany, New York 12242 with an informational copy to the Occupying Agency sent by certified mail to: (Occupying Agency and address).

The Landlord, Tenant and the Occupying Agency shall notify each other of all changes in the above-referenced addresses within ten (10) business days of the effective date of such change.

52. REQUIREMENTS/FEDERAL CERTIFICATIONS INTENTIONALLY DELETED

53. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS

The Landlord shall comply with the provisions of the New York State Information Security Breach and Notification Act (New York State General Business Law Section 899-aa and New York State Technology Law Section 208) and General Business Law Section 899-bb.

54. PRIOR LEASE / CANCELLATION INTENTIONALLY DELETED

55. ENCOURAGING USE OF NEW YORK STATE BUSINESSES

New York State businesses have a substantial presence in State leases and strongly contribute to the economies of the State and the nation. In recognition of the economic activity and leadership such businesses offer, landlords are strongly encouraged and expected to consider New York State businesses, including small, minority- and women-owned business enterprises, in the fulfillment of the requirements of leases. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Tenants and occupying agencies are also strongly encouraged, to the maximum extent practicable and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology.

Utilizing New York State businesses in State leases will help create more private sector jobs, rebuild New York State's infrastructure, and maximize economic activity to the mutual benefit of the Landlord and its New York State business partners. New York State businesses will promote the Landlord's optimal performance under this Lease.

The State encourages landlords to provide maximum assistance to New York State businesses in their use of State leases. The potential participation by all kinds of New York State businesses will deliver great value to the State and its taxpayers.

56. VENDOR RESPONSIBILITY

OGS conducts a review of prospective landlords to provide reasonable assurance that the landlord is responsive and responsible. The NYS Vendor Responsibility Questionnaire (VRQ), which can be found on the Office of the New York State Comptroller's website at <https://www.osc.state.ny.us/state-vendors/vendrep/file-your-vendor-responsibility-questionnaire?redirect=legacy>, or requested from the Tenant in accordance with Section 51 of this Lease, and the Building Fact Sheet, attached to this Lease as Exhibit 6, are designed to provide information to assess a landlord's responsibility to conduct business in New York State based upon its financial and organizational capacity, legal authority, business integrity and past performance history. The Landlord agrees to fully and accurately complete the VRQ and the Building Fact Sheet prior to execution of this Lease by the Commissioner, or her designee. The Landlord acknowledges that the State's execution of this Lease will be contingent upon the State's determination that the Landlord is responsible, and that the State will be relying upon the Landlord's responses to these documents when making its responsibility determination.

In order to assist the State in determining the responsibility of a landlord prior to the award of a lease, the Landlord must complete and certify the VRQ prior to the date of execution of this Lease and, thereafter, the Landlord is under the obligation to update the information provided in the VRQ when there is a material change to the responses or upon request of the Tenant, Occupying Agency or the Office of the New York State Comptroller. The Landlord should visit the Office of the New York State Comptroller's website to become familiar with all of the requirements of the VRQ in order to accurately complete it or may request information on the requirements from the Tenant.

In addition, the Landlord must complete the Building Fact Sheet prior to the date of execution of this Lease and, thereafter, the Landlord is under the obligation to update the information provided in the Building Fact Sheet when there is a material change to the responses or upon request of the Tenant, the Occupying Agency or the Office of the New York State Comptroller.

The Landlord agrees that if it enters into this Lease with the Tenant, it shall at all times during the Lease Term remain responsible. The Landlord agrees, if requested by the Commissioner, or her designee, to present evidence of its continuing legal authority to do business in New York State and its business integrity, legal authority, experience, ability, prior performance and organizational and financial capacity.

57. FORCE MAJEURE

For purposes of this Lease, "Force Majeure" shall mean an event or effect that cannot be reasonably anticipated or controlled. Force Majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, terrorism, strikes, fires, explosions, actions of the elements, floods, viruses, pandemics, unexpected and unavoidable governmental action or other similar causes beyond the control of the Landlord, the Tenant or the Occupying Agency in the performance of this Lease which non-performance, by exercise of reasonable diligence, cannot be prevented but shall expressly exclude the inability of the Landlord, the Tenant or the Occupying Agency to comply with any

payment obligations under this Lease, such as, by way of example only, the obligation to pay Fixed Rent hereunder.

58. PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. OGS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OGS leases.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of the economic activity such businesses offer in New York State, landlords are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of this Lease. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this Lease, OGS conducted a comprehensive search and determined that this Lease does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to the Landlord. Nevertheless, the Landlord is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on this Lease for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>.

The Landlord is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on this Lease.

59. LANDLORD REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

I. New York State Law

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (hereinafter collectively referred to as the "MWBE Regulations"), OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-Owned Business Enterprises (hereinafter referred to as the "MWBEs") and the employment of minority group members and women in the performance of leases entered into by the Tenant.

II. General Provisions

A. OGS is required to implement the provisions of the MWBE Regulations for all State Contracts as defined therein with a value (1) in excess of \$25,000.00 for labor, services, equipment, materials, or any combination of the foregoing or

(2) in excess of \$100,000.00 for real property renovations and construction.

B. The Landlord agrees, in addition to any other nondiscrimination provision of the Lease and at no additional cost to the Tenant, to fully comply and cooperate with the Tenant in the implementation of the MWBE Regulations. These requirements include equal employment opportunities for minority group members and women (hereinafter referred to as "EEO") and contracting opportunities for MWBEs. The Landlord's demonstration of "Good Faith Efforts" pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (hereinafter referred to as the "Human Rights Law") or other applicable federal, State, or local laws.

C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, a finding of non-responsibility, default under this Lease, withholding of funds, liquidated damages pursuant to Clause X of this section, if applicable, and/or such other actions or enforcement proceedings as allowed by this Lease and applicable law.

III. Equal Employment Opportunities

A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to all landlords, and any subcontractors, awarded a subcontract over \$25,000 for labor, services, including legal, financial and other professional services, travel, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to, the contracting State agency (hereinafter referred to as the "EEO Work") except where the EEO Work is for the beneficial use of the Landlord.

1. Landlords and subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, equal employment opportunities shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) the performance of work or the provision of services or any other activity that is unrelated, separate, or distinct from this Lease; or (ii) employment outside New York State.

2. By entering into this Lease, the Landlord certifies that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof, is the Landlord's EEO policy. In addition, the Landlord agrees to comply with the Non-Discrimination Requirements set forth in clause 5 of Appendix A, attached hereto and made a part hereof.

B. Form EEO 100 - Staffing Plan

To ensure compliance with this section, the Landlord agrees to submit, or has submitted with its Request for Information (hereinafter referred to as the "RFI") response, a staffing plan

on Form EEO 100 to the Tenant to document the composition of the proposed workforce to be utilized in the performance of this Lease by the specified categories listed, including ethnic background, gender, and federal occupational categories.

1. New York State Contract System Workforce Utilization Reporting Module Leases/Licenses/Permits or Other Transfers of Interests in Real Property. Under New York State Executive Law 15-A, certain leases have Workforce Utilization Reporting (hereinafter referred to as the "Workforce Audit") requirements which measure the utilization of minorities and women by landlords and subcontractors on these leases. Landlords and subcontractors performing work on leases above the legal threshold of \$100,000.00 for construction and \$25,000.00 for services and commodities, are now required to submit Workforce Audits electronically in the New York State Contract System (hereinafter referred to as the "NYSCS") through the Workforce Audit Module found at the following website: <https://ny.newnycontracts.com> on a quarterly basis during the Term, the Renewal Term, if applicable, or any holdover or extension thereof, by the 10th day of April, July, October, and January, and shall submit/report for it, and each of its subcontractors, the actual workforce utilized in the performance of this Lease by the specified categories listed including ethnic background, gender, and federal occupational categories. In the event that the Landlord does not have access to the NYSCS and is having difficulty complying with the requirements of this subsection, the EEO-101 Form, a sample of which is attached to this Lease as Exhibit 8, may be submitted in accordance with the directions provided therein.

2. Separate audits shall be completed by the Landlord and all subcontractors.

3. In limited instances, the Landlord or subcontractor may not be able to separate out the workforce utilized in the performance of this Lease from its total workforce. When a separation can be made, the Landlord or subcontractor shall submit the Workforce Audit and indicate that the information provided relates to the actual workforce utilized on this Lease. When the workforce to be utilized on this Lease cannot be separated out from the Landlord's or subcontractor's total workforce, the Landlord or subcontractor shall submit the Workforce Audit and indicate that the information provided is the Landlord's or subcontractor's total workforce during the subject time frame, not limited to work specifically performed under this Lease.

C. The Landlord shall comply with the provisions of the Human Rights Law and all other State and federal statutory and constitutional non-discrimination provisions. The Landlord and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal and conviction and prior arrest.

IV. Fraud

Any suspicion of fraud, waste, or abuse involving the contracting or certification of MWBEs shall be immediately reported to ESD's Division of Minority and Women's Business Development at 855-373-4692.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/mwbe/forms>.

V. Lease Goals

A. For purposes of this Lease, the Tenant conducted a comprehensive search and determined that this Lease does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers, or suppliers to the Landlord. The Landlord is, however, encouraged to make every Good Faith Effort, as outlined in Section IV. B of this clause, to promote and assist the participation of MWBEs on this Lease for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com>. Additionally, following execution of this Lease, the Landlord is encouraged to contact the New York State ESD's Division of Minority and Women's Business Development (518-292-5250; 212-803-2414; or 716-846-8200) to discuss additional methods of maximizing participation by MWBEs on this Lease.

B. Good Faith Efforts

Pursuant to 5 NYCRR § 142.8, evidence of Good Faith Efforts shall include, but not be limited to, the following:

1. A list of the general circulation, trade, and MWBE-oriented publications and dates of publications in which the Landlord solicited the participation of certified MWBEs as subcontractors/suppliers, copies of such solicitations, and any responses thereto.
2. A list of the certified MWBEs appearing in the ESD's MWBE directory that were solicited for this Lease. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
3. Descriptions of this Lease made available to certified MWBEs by the Landlord when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with, or obtaining supplies from, certified MWBEs.
4. A description of the negotiations between the Landlord and certified MWBEs for the purposes of complying with the MWBE goals of this Lease.
5. Dates of any pre-RFI response, pre-award, or other meetings attended by the Landlord, if any, scheduled by the Tenant with certified MWBEs whom the Tenant determined were capable of fulfilling the MWBE goals set in this Lease.
6. Other information deemed relevant to the request.

60. APPENDIX, EXHIBIT (S) AND SCHEDULE (S)

The following appendix, exhibit(s) and schedule(s) are being attached and made part of this Lease:

Appendix A	Standard Clauses for New York State Contracts
Exhibit 1	(Drawing #) (Section 1 and Work Letter)
Exhibit 1A	Room Data Sheets (Section 13 and Work Letter)
Exhibit 2	OGS Material Specifications for Leased Facilities (Section 11 and the Work Letter)
Exhibit 2A	Cabling Specifications (Schedule B)
Exhibit 3	Executive Order 22 (Sections 11, 12, 16, 17, 62 and 63 and Schedules A and B)
Exhibit 4	Request for Lease Compliance Service(s) (Section 19)
Exhibit 5	Sample Lease Assignment Agreement (Section 30)
Exhibit 6	Building Fact Sheet (Section 56)
Exhibit 7	Department of Labor Specifications for Leased Facilities (Work Letter) (For DOL Leases ONLY - delete if not applicable)
Exhibit 8	Sample Workforce Audit (Section 59)
Schedule A	Janitorial Service Specifications (Section 16)
Schedule B	Work Letter (Section 43)
Schedule C	Construction and Renovation Schedule

In the event of a conflict between the terms of this Lease and the exhibits and schedules hereto, the terms of this Lease shall control. In the event of a conflict between the terms of this Lease (including the exhibits and schedules) and Appendix A hereto, the terms of Appendix A shall control.

61. APPENDIX A

The Parties acknowledge and agree that the terms and provisions of Appendix A, Standard Clauses for New York State Contracts, attached hereto and forming a part of this Lease, shall be incorporated herein and constitute fully effective and binding obligations upon the Parties.

62. REDUCING WASTE

Pursuant to Executive Order 22, which is annexed hereto as Exhibit 3, the Landlord shall identify all instances where single-use plastics are used in the common areas of the Building, the Demised Premises or in performance of its obligations pursuant to this Lease and create a plan to eliminate their use in all circumstances where doing so will not endanger employee or public health and safety. In addition, Executive Order 22 prohibits the expenditure of State funds for the purchase of bottled water. The Landlord acknowledges an understanding of the requirements of EO-22 and pledges to cooperate with the Tenant and the Occupying Agency in their implementation.

63. REDUCING GREEN HOUSE EMISSIONS/CLIMATE CHANGE/OPEN SPACE

Executive Order No. 22, which is annexed hereto as Exhibit 3, provides requirements and prohibitions pertaining to a variety of matters, including but not limited to, the avoidance of the use of backup emergency diesel generators where practicable, the design and build out of projects to account for the climate change that may occur over the lifespan of the project including incorporating climate projections and adaptation strategies in upfront design and expected operations and management, and consideration of the preservation of open space as a strategy for climate risk mitigation in new and existing construction. The Landlord acknowledges an understanding of the requirements of EO-22 and

pledges to cooperate with the Tenant and the Occupying Agency in their implementation.

Remainder of the Page is Intentionally Left Blank

The New York State Office of General Services
Agency Certification

Contract Number_____

In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

By: _____
The New York State Office of General Services
Lease Management
Division of Real Estate
Leasing Services

IN WITNESS WHEREOF, the Parties hereto have caused this Lease to be executed in multiple originals the day and year first written above.

The Landlord certifies that all information provided to the State of New York with respect to State Finance Law §139-k is complete, true and accurate. The State reserves the right to terminate this Lease in the event it is found that the certification filed by the Landlord in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the State may exercise its termination right by providing written notification to the Landlord in accordance with Section 51 of this Lease.

LANDLORD NAME

By _____
Name:
Title:

STATE OF NEW YORK }
 : SS.:
COUNTY OF _____ }

On the ____ day of _____, in the year 20__ before me, the above-signed, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public, State of New York
Qualified in County of: _____
My Commission Expires: _____

Contract Number_____

Thomas P. DiNapoli
New York State Comptroller

By: _____

Date: _____

THE PEOPLE OF THE STATE OF NEW YORK
Acting by and Through the
Commissioner of General Services

By: _____
Scott C. Sandwick
Associate Commissioner, Lease Management
Division of Real Estate
Leasing Services

APPROVED AS TO FORM:
Letitia A. James
Attorney General

By: _____

Approved:
Assistant Attorney General

EXHIBIT 2A

Cabling Specifications

Generalized Local Area Network Cabling Specifications
Additional cabling information and requirements may be located
on Exhibit 1A

Structured Copper Cabling

- All structured cabling shall be installed to meet the Telecommunications Industry Association (TIA) and Electronic Industries Alliance (EIA) category 6 and 6A industry standard. Provide a copy of the manufacturer warranty to the Tenant.
- Local Area Network (LAN) cabling shall be distributed to one or more tel/-data closets per floor as determined during design phase to maintain industry standard maximum recommended lengths.
- Green sheath cable shall be utilized during a new construction scenario. When adding to existing infrastructure the existing cable manufacturer shall be matched for consistency.
- All data closets shall have uniform lighting throughout, consistent air exchange or cooling to maintain 72-degree ambient temperature. Equipment thermal loads for each closet will be determined during design phase.
- All Wireless Access Points (WAPS) shall be cabled with category 6A cable, jacks and patch panels. Mounting of access points shall be included in scope of work and shall be attached to ceiling, walls or other location. Access point floor plan layout will be determined during design phase.
- Faceplates style will depend upon furniture compatibility. The Landlord's cable installation vendor will need to communicate with the Tenant to determine which faceplate will fit into the modular furniture. The faceplate color is to be determined by the Tenant.
- Network cables shall be supported by J-hooks or cable saddles spaced at 48" intervals above the dropped ceiling. Cable support apparatus may be connected to building steel or connected to wall structures.
- Cabling shall be routed to run along established walkways, where feasible to do so. This is to avoid working over the desks of individuals for the latter installation of additional cables.
- All LAN cables shall be tested to the established EIA/TIA standards for categories 6 and 6A. Paper and electronic test reports shall be provided to the Tenant for review and acceptance. At a minimum the report must provide the following:
 - o Cable ID number
 - o Near end and far end cross talk attenuation
 - o Wire mapping

- o Cable length
- All cables shall be labeled at both ends of the cable with a corresponding cable identification number.
- Patch panels and data jacks shall be machine labeled with a cable ID number that meets industry standard.
- Patch cable color(s), length(s) and quantity will be determined during design phase and/or are specified on the Room Data Sheets.

Network Room Layout

- Network rooms shall be sized with a minimum of 36" clearance between equipment and any other fixed part of the Building structure (I.E., walls, door swing, support columns).
- Provide a minimum of 12" inch wide Telco-Style Cable Runway and all associated hardware for proper support, within all tel/data closets. Runway is required to properly route the cable entering the closets over to the network racks. The cable runway shall be installed over the network racks and be positioned in a manner as to provide 36 - 48 inches of space behind the network rack
- Provide network racks and wire management as determined during design phase. Racks shall be positively secured to the floor and the ladder rack to prevent any lateral movement.

Structured Fiber Optic Cabling <ITS TO SPECIFY>

- As needed the landlord shall install _____-micron, **armored fiber optic cable(s)** to connect the satellite closets with the main network closet. The cable is to be terminated on latch connector (LC) Unicam fiber tips and terminated in _____ type housings in each network closet.
- All fiber optic cables will be labeled with wrap around labels at 20' intervals along the entire route. For example: 62.5 FM, 50-micron 5M, 8.3-micron single mode (FS) or hybrid multimode (FMS) fiber, labeling identifier should be denoted at each end of each fiber optic riser or tie cable.
- If physical diversity is required to deliver a circuit to the building main distribution frame (MDF) the building must have separate physical paths of entry for a contract vendor to install the required data circuit as needed. Details will be determined during design phase.
- "As-built" drawings shall be provided by the Landlord, detailing the location of each fiber optic cable along with its corresponding Cable ID number.
- All fiber optic cables shall be tested and certified according to the EIA/TIA standards for the type of cable being installed. Paper and electronic test reports shall be provided to the Tenant for review and acceptance. At a minimum, the report must provide the following:

- o Cable ID number

- o Near end and far end cross talk attenuation
- o Wire mapping
- o Cable length

Network Room Electrical

In addition to electrical receptacles placed along walls according to the current version of the National Electrical Code (NEC), electrical service shall be installed for network equipment as determined during design phase, but in no case shall be less than the following:

- Two (2) 20 amp - double duplex power circuits (quad box) for each satellite network closet rack assembly. The receptacles shall be located at the base of the rack line up.
- Eight (8) 20 amp - double duplex power circuits (quad box) shall be provided for the rack array in the main network closet. The receptacles shall be located at the base of the rack line up.

EXHIBIT NO. 3

No. 22

EXECUTIVE ORDER

Leading By Example: Directing State Agencies to Adopt a Sustainability and Decarbonization Program

WHEREAS, the State of New York (“NYS” or “State”) is dedicated to the pursuit of environmental quality, sound public health, economic prosperity, and social well-being; and

WHEREAS, the use and disposal of materials, and the generation and use of energy, can have significant adverse impacts on environmental quality, public health and the climate; and

WHEREAS, the State's policies include conserving, improving, and protecting natural resources and the environment; preventing water, air, and land pollution; and enhancing the health, safety, and welfare of State residents and their overall economic and social well-being; and

WHEREAS, it is the State's policy to promote cost-effective methods to reduce energy and resource consumption, and reduce or eliminate the use of hazardous substances and the generation of hazardous substances, pollution, and waste at the source; and

WHEREAS, the State's solid waste management priorities include reducing the generation of solid waste and reusing and recycling materials; and

WHEREAS, the State's policies to advance environmental justice include improving the environment in communities, specifically minority and low-income communities, and addressing disproportionate adverse environmental impacts that may exist in those communities; and

WHEREAS, the State's procurement of commodities, services, and technology can be enhanced through State agency and public authority choices that minimize the negative environmental and health impacts of their operations; and

WHEREAS, State government can and should continue to lead in environmental stewardship through the use of green procurement and sustainable management practices; and

WHEREAS, State facilities and property can serve as testbeds for the deployment of clean energy projects and new technologies to scale, thereby accelerating widespread adoption of clean energy projects and technologies in the public and private sectors; and

WHEREAS, on July 18, 2019, the State enacted the Climate Leadership and Community Protection Act (the “Climate Act”), the most ambitious climate legislation in the United States. The Climate Act established a Climate Action Council charged with developing a plan to reduce greenhouse gas emissions in every sector of the State's economy; and

WHEREAS, Section 7 of the Climate Act addresses climate change actions by NYS agencies, and specifically that Section 7.1 states that NYS agencies shall assess and implement strategies to reduce their greenhouse gas emissions; and

WHEREAS, Section 7.3 of the Climate Act also directs all State agencies, offices, authorities, and divisions to prioritize reductions of greenhouse gas emissions and co-pollutants in Disadvantaged Communities as identified pursuant to Subdivision 5 of Section 75-0101 of the Environmental Conservation Law (“ECL”); and

WHEREAS, the State has already committed to meet 100 percent of its Office of General Services (“OGS”)-managed State agency facility electricity demand in New York City with renewable energy by 2025.

NOW, THEREFORE, I, KATHY HOCHUL, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order as follows:

I. Definitions

- A. “Affected Entities” shall mean any agency or department over which the Governor has executive authority, including all offices and divisions thereof, as well as all public authorities for which the Governor appoints the Chair, the Chief Executive, or the majority of board members, including

all offices and divisions thereof, except for the Port Authority of New York and New Jersey. This shall include the State University of New York and the City University of New York. Refer to the list presented in Exhibit A.

- B. “BuildSmart 2025” shall mean the collective effort by Affected Entities to reduce site energy use by 11 trillion British Thermal Units by 2025 from a 2015 baseline.
- C. “Disadvantaged Communities” shall mean communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate- income households, as identified pursuant to ECL § 75-0111.
- D. “Light-duty vehicles” shall mean vehicles equal or less than 10,000 pounds gross weight.
- E. “Medium- and heavy-duty vehicles” shall mean more than 10,000 pounds gross weight.
- F. “New construction” shall mean the construction of a new building that is occupied during all four seasons and is 5,000 square feet or larger.
- G. “Qualifying Tier” shall mean any tier of the New York State Public Service Commission’s Clean Energy Standard (Case 15-E-0302) (“CES”) that is designed to incentivize the delivery of additional, incremental clean energy to New York State or a specific location within New York State, which as of the date of this Executive Order includes Tier 1, Offshore Wind and Tier 4 but not Tier 2 or Zero-Emission Credits.

II. GreenNY Council

- A. There is hereby established the GreenNY Council (the "Council"). The Council shall be comprised of the Director of the Division of the Budget (“DOB”); the Commissioner of the Office of General Services; the Commissioner of the Department of Environmental Conservation (“DEC”); the Commissioner of the Department of Health; the Commissioner of Economic Development; the Commissioner of Transportation; the Commissioner of the Office of Parks, Recreation, and Historic Preservation; the President of the Environmental Facilities Corporation; the President of the New York State Energy Research and Development Authority (“NYSERDA”); the President of the New York Power Authority (“NYPA”); the President of the Dormitory Authority of the State of New York; and the Chief Executive Officer of the Metropolitan Transportation Authority.
- B. The Council shall be the primary body responsible for implementing this Order.
- C. Members of the Council may designate a staff member, and an alternate, to represent them and participate on the Council on their behalf.
- D. The Council shall be led and co-chaired by the Commissioner of OGS, the Commissioner of DEC, the Director of DOB, the President of NYSERDA, and the President of NYPA, or their designees. The day-to-day work of the Council shall be performed by executive and program staff of these leadership agencies and authorities, in consultation with any other agency or authority staff that participate in Council work.
- E. The Office of Information Technology Services shall support the Council’s performance of its responsibilities under this Order.
- F. The Council shall meet as needed, but no less than quarterly, to conduct public business. A majority of the members of the Council (or their designees), shall constitute a quorum, and all actions and recommendations of the Council shall require approval by a majority of the total members of the Council.
- G. The Council may form advisory subcommittees or workgroups, both standing and ad hoc, as the Council sees fit, made up of executive and program staff, to provide advice and assistance to the Council regarding matters assigned to such subcommittees or workgroups by the Council.

III. Training, Staff, and Support

- A. Each Affected Entity shall, no later than 30 days from the issuance of this Order, assign an employee to serve as its Sustainability Coordinator. Sustainability Coordinators shall be given management support and provided with the necessary resources to enable the Affected Entity to comply with this Order. Sustainability Coordinators shall serve as the Affected Entity’s liaison to the Council.
 - 1. Affected Entities are encouraged to create a Sustainability Team in-house to support the work of the Council. This Sustainability Team should be comprised of appropriate staff

involved in identifying, approving, and implementing sustainability or energy projects, and environmental justice matters. The Sustainability Team should include an executive sponsor at the Deputy or Associate Commissioner, or Vice President level or equivalent.

- B. The Council shall design and implement training and outreach programs for Sustainability Coordinators and other Affected Entity staff that participate in Council work to assist with carrying out the requirements of this Order.

IV. Reporting

- A. All Affected Entities shall furnish such information and assistance as the Council determines is reasonably necessary to accomplish its purposes. All Affected Entities shall share data in the most efficient manner identified by the Council for purposes of informing any progress reports, and the Council shall follow applicable NYS Data Governance procedures regarding any interagency data sharing or collection.
- B. NYPA shall provide Affected Entities with access to the New York Energy Manager (“NYEM”), with necessary technical support, at cost. NYEM shall serve as the system of record for all energy data from covered facilities. All Affected Entities shall ensure that their energy data is entered into the NYEM system. The Council shall leverage this data to develop a GHG baseline for Affected Entity operations.
- C. The Council shall develop an annual survey to gather information from Affected Entities regarding:
 - 1. The progress each Affected Entity has made toward achieving the directives, targets and goals provided for or established pursuant to this Order;
 - 2. The effectiveness and usage of the procurement specifications;
 - 3. Efforts the Affected Entity has undertaken to advance environmental justice; and
 - 4. The specific sustainability and energy efficiency projects that have been implemented and the effectiveness of such programs in meeting the targets, goals, and other requirements of this Order.
- D. Affected Entities shall submit each year on or before a date as the Council may direct, a completed survey in the form and containing the information specified by the Council
- E. The Council, during the month of September in the year following the issuance of this Order, and each year thereafter, shall submit a progress report to the Governor, which shall compile the information submitted by Affected Entities pursuant to this Order and report on progress made on the implementation of this Order. Such progress report shall be published on a website established by the Council.

V. Exemptions

- A. Exemptions from any of the specific targets, goals, or other requirements under this Order may be granted by the Council co-chairs, provided, however, that any exemptions to Section VII.A of this Order may only be granted by the President of NYSERDA in consultation with the Chief Executive Officer of the New York State Department of Public Service (“DPS”) and Director of Budget.
- B. Affected Entities may request such an exemption from Council co-chairs and must justify such request based upon the Affected Entity’s particular circumstances or as set forth in this Order.

VI. Buying and Operating Green

- A. The Council shall develop and issue sustainable procurement specifications (procurement specifications) for use by Affected Entities in the procurement of commodities, services, and technology, or where applicable, in the development of new public works solicitations and contracts.
Any procurement specifications developed, approved, or issued by the Interagency Committee on Sustainability and Green Procurement under Executive Order 4, issued on April 24, 2008, shall carry forward in full effect as if issued by the Council until modified by the Council.
- B. In developing the procurement specifications, the Council shall consider the following factors:
 - 1. Protection of public health and the environment, including vulnerable populations and residents in Disadvantaged Communities;

2. Avoidance of hazards from the use or release of toxic substances;
 3. Pollution reduction and prevention;
 4. Sustainable resource management and use, and sustainable manufacturing and production processes;
 5. Low impact development and climate resilient design practices, and standards and priorities for entities providing construction, engineering, and other similar services;
 6. Reduction of greenhouse gas emissions;
 7. The use of renewable and zero-emission resources, remanufactured components, and reused or recycled content;
 8. Waste reduction, materials reuse, recyclability, and compostability;
 9. Water conservation;
 10. Quality, durability and utility of the item of procurement;
 11. Minimizing adverse impacts throughout a commodity's or technology's life cycle (i.e., as identified by life-cycle assessment or other supply-chain impacts);
 12. Cost;
 13. Extended producer responsibility; and
 14. Legal and regulatory requirements applicable to the use and procurement of commodities, services, and technology, or where applicable, the procurement of public works.
- C. Affected Entities shall follow the GreenNY procurement specifications approved by the Council when procuring under existing contracts or when developing new solicitations and contracts for the procurement of commodities, services, and technology, or where applicable, in the development of new public works solicitations and contracts.
- D. Where an Affected Entity determines: (1) that such commodities, services, or technology set forth in an approved GreenNY procurement specification will not meet required form, function or utility; (2) the cost of the commodities, services or technology set forth in an approved GreenNY procurement specification is not competitive; or (3) there is a compelling public health or safety reason not to purchase such commodities, services or technology set forth in an approved GreenNY procurement specification, the Affected Entity may seek an exemption from the Council for its particular circumstances pursuant to Section V of this Order.
- E. The Council may issue green operational directives (“Operational Directives”) in a form substantially similar to its procurement specifications. In developing the Operational Directives, the Council shall consider the 13 factors set forth in Section VI.B above.
- F. The Council shall provide Affected Entities with a description of projects, programs and services that can be leveraged to implement the requirements of this Order.
- G. Affected Entities shall follow the Council’s Operational Directives when conducting the Affected Entity’s operations on real property and facilities under the Affected Entity’s jurisdiction.
- H. The Council shall work with the preferred sources and Minority and Woman Owned Business Enterprises and Service-Disabled Veteran Owned Businesses in order to increase awareness of the GreenNY procurement specifications.
- I. The Council shall develop a baseline for sustainable purchasing by affected entities and issue targets to achieve greater compliance.

VII. Reducing Greenhouse Gas Emissions

- A. By 2030 and thereafter, subject to available supply, 100% of the electricity used by Affected Entities for their own operations, except electricity needed to support the generation of electricity by an Affected Entity in accordance with its enabling authority, shall come from energy systems that are eligible under the CES (“Eligible Systems”) as part of an all-of-government approach to meet the goals of the Climate Act in a cost-effective manner.
1. Each Affected Entity shall first count the amount of clean energy generated by Eligible Systems across the State that the Affected Entity pays for in its electricity bills or otherwise towards compliance with CES, based on calculations provided by NYSERDA. Affected Entities shall provide information requested by NYSERDA to

perform the applicable calculations, including load data, CES compliance payments, and any other necessary information.

2. For the remainder of its electricity usage, each Affected Entity shall next be required to demonstrate meeting this obligation, where feasible, through the use of on- or off-site Eligible Systems providing energy dedicated to the Affected Entity's operations.
 3. For the portion of electricity that cannot be served by such Eligible Systems, each Affected Entity shall, in consultation and agreement with NYSERDA and DPS, procure renewable energy certificates ("RECs") qualified under a Qualifying Tier of the CES.
 4. NYSERDA and DPS shall establish further detailed guidelines and requirements with respect to how each Affected Entity shall comply, and report compliance, with this Section VII(A) of this Executive Order.
 5. The Council will monitor progress towards this requirement, and NYSERDA and DPS will make adjustments to this obligation as needed based on statewide progress towards Climate Act mandates.
- B. To the fullest extent feasible, beginning January 1, 2024, all new construction submitted for permitting by Affected Entities shall avoid infrastructure, building systems or equipment that can be used for the combustion of fossil fuels, excluding the necessary use for backup emergency generation and process loads, provided that Affected Entities shall avoid the use of backup emergency diesel generators where practicable. This shall not affect the continued operation and maintenance of State or Affected Entity owned or operated electric generating facilities. The Council will monitor progress towards this goal.
- C. Affected Entities shall achieve 11 trillion BTUs of energy savings at their facilities by 2025 as outlined in the BuildSmart 2025 program.
1. Each Affected Entity shall work with NYPA to achieve their allotted portion of the overall savings target for State operations. Affected Entities should consult the BuildSmart 2025 Program Guidelines for types of projects and programs to undertake, including master planning, O&M program development, participation in demand response and similar programs, submetering, LED lighting, and other projects that reduce energy consumption and enhance building efficiency.
 2. Prior to 2025, the Council shall issue a 2030 energy savings goal based on an evaluation of progress towards the 2025 goal and the additional opportunities that remain for cost-effective energy savings. Such 2030 goal shall be aligned with the most recent version of the State's Scoping Plan developed pursuant the Climate Act.
- D. The Council shall issue Operational Directives and guidance for common construction materials to reduce the amount of embodied carbon in such materials. Starting January 1, 2023, Affected Entities shall seek to reduce the embodied carbon in all new construction or construction projects consisting of adaptive reuse or significant renovations that cost greater than 50% of the cost of new construction, submitted for permitting by Affected Entities, by taking the following actions:
1. Design teams shall calculate the total embodied carbon that will result from the project, including shipping, transportation, and construction equipment requirements.
 2. Bidders shall be required to submit environmental product declarations when available, that include the amount of embodied carbon in given building materials.
- E. Affected Entities shall have 100% of their light-duty non-emergency vehicle fleets be Zero Emission Vehicles (ZEVs) by 2035 and 100% of their medium- and heavy-duty vehicle fleet be ZEVs by 2040.
1. All Affected Entities shall create and file a light-duty vehicle fleet decarbonization plan and a medium- and heavy-duty decarbonization plan with the Council. The Council shall provide technical assistance and guidance to agencies for the development of decarbonization plans. Such decarbonization plans shall include, at minimum, the following elements:
 - a. A purchasing plan that includes interim targets for how they will achieve the fleet decarbonization goals of this Order; and
 - b. A plan for providing staff training and engagement necessary for the successful decarbonization of their fleet.

2. Affected Entities shall file such light-duty vehicle fleet decarbonization plans with the Council within one year of the issuance of this Order and shall file such medium- and heavy-duty decarbonization plans with the Council within three years of the issuance of this Order.
 3. Affected Entities shall file progress updates to their light and medium- and heavy-duty vehicle decarbonization plans every three years after the filing of their first plan.
 4. Priority shall be given to purchasing battery electric vehicles and hydrogen fuel cell vehicles, and if they are not practicable for an Affected Entity's needs, then plug-in hybrid electric vehicles may be considered in limited circumstances as specifically authorized by the Council.
 5. Affected Entities that operate emergency vehicles shall, at least annually, evaluate and test various ZEV technologies to determine if they can meet the use cases for these vehicles.
 6. Affected Entities shall consult with OGS to develop ZEV charging infrastructure for their fleets. OGS shall provide guidance to agencies and coordinate the phased implementation of ZEV charging infrastructure.
 7. Affected Entities are encouraged to maximize employee access to and promote the use of ZEV charging infrastructure employee workplace charging at State owned and maintained parking facilities.
- F. Affected Entities shall evaluate the inclusion of distributed energy resources and energy storage to the maximum extent practicable. NYPA and NYSERDA shall collaborate to provide Affected Entities with needed technical assistance regarding new energy storage systems.
- G. Affected Entities shall seek to utilize the DEC Value of Carbon Guidance, where appropriate, to aid in their decision making on greenhouse gas emission reductions under this Executive Order

VIII. Reducing Waste

- A. The Council shall create a waste diversion plan template that Affected Entities shall use to complete their plans. All Affected Entities shall create a waste diversion plan and file such plan with the Council that outlines how they will meet the following goals:
1. A decrease in waste disposal of 10 percent every five years from a baseline of Fiscal Year 2018-19, until reaching a goal of 75 percent.
 2. Waste data reported for these goals should be broken out into the following categories: recycled materials; compostable materials and other organics; material sent to landfill (including construction and demolition waste); and special waste (including hazardous waste).
 3. The waste diversion plan shall incorporate at least the following elements:
 - a. a schedule for conducting routine waste audits of facilities and how the findings from the waste audit will be utilized in advancing waste reduction;
 - b. a plan for diverting organic waste from landfill to meet the diversion goals;
 - c. identifying all instances where single-use plastics are used and creating a plan to eliminate their use in all circumstances where doing so will not endanger employee or public health and safety; and
 - d. consideration of whether the affected entity should, by 2025, transition to dual-stream recycling that source separates recyclable items into subcategories of mixed paper and commingled containers (plastic, glass, and metal), at all facilities where it is practicable and where dual-stream material recovery facilities are available, cost-effective and efficient.
 4. In addition, technical assistance in compiling the plans will be provided by DEC.
 5. The Council shall reassess the waste diversion goals of this Order at least every five years, and if the goals are updated by the Council, it shall require updated waste diversion plans to be submitted by Affected Entities on how each will meet the new goals.
 6. Affected Entities shall file such plans with the Council within one year of the receipt of the waste diversion plan template.

- B. After 90 days following the issuance of this Order, Affected Entities shall not expend State funds for the purchase of bottled water. If an Affected Entity determines that it has a need to purchase bottled water for health or safety reasons, it may request an exemption from the Council for its particular circumstances pursuant to Section V of this Order. The Council shall issue guidance on exceptions to this requirement to address public health issues and other appropriate circumstances. This Section does not apply to an Affected Entity purchasing bottled water for emergency purposes.

IX. Reducing Use of Toxic Substances

- A. Affected Entities shall evaluate and incorporate toxics use reduction strategies into their operations, to the extent practicable, to achieve pollution prevention. The Council will, at a minimum, provide agencies with information on healthy buildings, green cleaning and disinfection, integrated pest management and green procurement.

XI. Low Impact Development

- A. Affected Entities shall evaluate, and to the maximum extent practicable, incorporate green infrastructure concepts to reduce all stormwater runoff and improve water quality in new construction or redevelopment projects submitted for permitting by Affected Entities regardless of disturbance threshold. These include activities such as the reconstruction of parking lots and the addition of new landscaping.
- B. The Council, in collaboration with the EFC, will provide guidance on incorporating green infrastructure concepts to Affected Entities.
- C. Climate Risk Incorporation
 - 1. New infrastructure and building projects shall be designed and built to account for the climate changes that may occur over their lifespans. This includes incorporating climate projections and adaptation strategies in upfront design and expected operations and management. Preservation of open space shall be considered as a strategy for climate risk mitigation in new and existing construction.
 - 2. The Council will provide guidance on incorporating climate projections and climate risk concepts to Affected Entities.
 - 3. All Affected Entities shall evaluate opportunities to harden their infrastructure and mitigate the impacts of climate change with resilience practices such as nature-based solutions and modular infrastructure.

XII. Promoting Biodiversity and Habitat Protection

- A. Affected Entities that have jurisdiction over real property shall, where practicable, seek opportunities to enhance the ecological integrity of their real property to support native biodiversity and the NYS Pollinator Protection Plan, protect threatened and endangered species, and increase climate resilience and natural carbon storage. This includes prioritizing the use of native plants and minimizing the use of non-native plants in landscaping and other planting efforts and other activities that may be identified in the New York Natural Heritage Program conservation guide and its management recommendations regarding listed plants.
- B. The Council shall provide a template for all Affected Entities to implement an Early Detection Rapid Response protocol in place for invasive species on the real property over which the Affected Entity has jurisdiction. The Council may issue additional operational directives to stop the spread of invasive species on State-owned real property.
- C. Affected entities shall give priority to the use of integrated pest management techniques to control invasive species before turning to other means of eradication.
- D. All Affected Entities shall follow available best practices for identifying and properly managing endangered species on real property and ensure that their projects and operations do not have an adverse impact upon any endangered species. The DEC shall provide guidance and technical assistance to Affected Entities regarding properly managing endangered species and data tools to identify locations where endangered species issues may be present.
- E. Affected Entities shall evaluate opportunities, to the extent practicable, to co-locate new projects with landscaping or habitat to support native pollinator species and the goals of the NYS Pollinator Protection Plan and enhance climate resilience and natural carbon storage.

XIII. Disadvantaged Communities

- A. Each Affected Entity shall, to the maximum extent practicable, lower the impact of its operations on Disadvantaged Communities, and shall incorporate lowered environmental impact in these communities into the plans developed by Affected Entities pursuant to this Order.
- B. The Council shall conduct an inventory of State-owned facilities located in Disadvantaged Communities.
- C. Affected Entities shall prioritize facilities over which the Affected Entity has jurisdiction that are located within Disadvantaged Communities for efficiency and other environmental upgrades, such as electrifying heating and cooling systems, which will lower the Affected Entity's environmental impacts on these communities.

XIV. Innovative Solutions

- A. The Council shall continuously evaluate the potential of new technologies in order to assist Affected Entities in continuing to reduce their environmental footprint and increase climate resilience (mitigation and adaptation) of its operations, and wherever feasible, test new technologies and equipment to determine if such technologies or equipment is practicable for adoption in Affected Entity operations.

XV. Repeal of Prior Executive Orders

- A. Executive Order 4, issued on April 24, 2008, Executive Order 18, issued on May 5, 2009, Executive Order 88, issued on December 28, 2012, and Executive Order 166, issued on June 1, 2017, are hereby revoked and superseded by this Executive Order.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this twentieth day of September in the year two thousand twenty-two.

BY THE GOVERNOR

Secretary to the Governor

EXHIBIT A – Affected Entities

- 1) AGING- Office for the Aging
- 2) AGM- Department of Agriculture and Markets
- 3) APA- Adirondack Park Agency
- 4) ARTS- Council on the Arts
- 5) BFSA- Buffalo Fiscal Stability Authority
- 6) BOE- Board of Elections
- 7) BPCA- Battery Park City Authority/Parks Conservancy
- 8) CDTA- Capital District Transportation Authority
- 9) CELG- Commission on Ethics and Lobbying in Government
- 10) CENTRO- Central New York Regional Transportation Authority
- 11) CIVIL- Department of Civil Service
- 12) CPB- Central Pines Barrens Joint Planning & Policy Commission
- 13) CUNY- City University of New York
- 14) DASNY- Dormitory Authority of New York
- 15) DCJS- Division of Criminal Justice Services
- 16) DEC- Department of Environmental Conservation
- 17) DED- Department of Economic Development
- 18) DFS- Department of Financial Services
- 19) DHCR- Division of Housing and Community Renewal
- 20) DHR- Division of Human Rights
- 21) DHSES- Division of Homeland Security and Emergency Services
- 22) DMV- Department of Motor Vehicles
- 23) DOB- Division of Budget
- 24) DOCCS- Department of Corrections and Community Supervision
- 25) DOH- Department of Health
- 26) DOS- Department of State
- 27) DOT- Department of Transportation
- 28) DPS- Department of Public Service
- 29) DVS- Division of Veterans Services
- 30) ECFSA- Erie County Fiscal Stability Authority
- 31) ECMC- Erie County Medical Center Corporation
- 32) EFC- Environmental Facilities Corporation
- 33) FCB- Financial Control Board
- 34) GAMING- Gaming Commission
- 35) GOER- Governor's Office of Employee Relations
- 36) HESC- Higher Education Services Corporation
- 37) HRBRD- Hudson River- Black River Regulating District
- 38) HRVG- Hudson River Valley Greenway
- 39) IG- Office of Inspector General
- 40) ITS- Information Technology Services
- 41) JAVITS- New York Convention Center Operating Corporation
- 42) JC- Justice Center

- 43) LABOR- Department of Labor
- 44) LIPA- Long Island Power Authority
- 45) MNA- Division of Military and Naval Affairs
- 46) MTA- Metropolitan Transportation Authority
- 47) NFTA- Niagara Frontier Transportation Authority
- 48) NIFA- Nassau County Interim Finance Authority
- 49) NYPA- New York Power Authority
- 50) NYSBA- New York State Bridge Authority
- 51) NYSERDA- NYS Energy Research and Development Authority
- 52) NYSIF- Insurance Fund
- 53) OASAS- Office of Alcoholism and Substance Abuse Services
- 54) OCFS- Office of Children and Family Services
- 55) Office of Victim Services
- 56) OGDENSBURG- Ogdensburg Bridge and Port Authority
- 57) OGS- Office of General Services
- 58) OMH- Office of Mental Health
- 59) OPRHP- Office of Parks, Recreation, and Historic Preservation
- 60) OPWDD- Office of People with Developmental Disabilities
- 61) ORDA- Olympic Regional Development Authority
- 62) OTDA- Office of Temporary and Disability Assistance
- 63) PERB- Public Employment Relations Board
- 64) PORTOSWEGO- Port of Oswego Authority
- 65) RIOC- Roosevelt Island Operating Corporation of the State of New York
- 66) RTS – Rochester Genesee Regional Transportation Authority
- 67) SLA - Alcohol Beverage Control (State Liquor Authority)
- 68) SUNY- State University of New York
- 69) TAX- Department of Taxation & Finance
- 70) THRUWAY- Thruway Authority
- 71) TROOPERS- State Police
- 72) UDC- Urban Development Corporation
- 73) UNDC- United Nations Development Corporation
- 74) WCB- Workers' Compensation Board
- 75) WCMC- Westchester County Health Corporation

EXHIBIT 4

NYS Office of General Services
Lease Management
Division of Real Estate
Leasing Services
Governor Nelson A. Rockefeller Empire State Plaza
Corning Tower, 40th Floor
Albany, New York 12242

E-mail: ogs.sm.leasecompliance@ogs.ny.gov

Request for Lease Compliance Service(s)

Please supply all necessary information:

Date of Request / /
 Month Day Year

Requested By _____ Phone _____

E-mail _____

Lease Number _____

Landlord been notified in writing? Y or N

Agency _____

Agency Contact _____ Phone _____

Building Address _____

Building Contact _____ Phone _____

Brief Description of Work - Nature of Problem

EXHIBIT 6

BUILDING FACT SHEET

LEASE MANAGEMENT, DIVISION OF REAL ESTATE, LEASING SERVICES

GOVERNOR NELSON A. ROCKEFELLER EMPIRE STATE PLAZA, CORNING TOWER, 40TH FLOOR

ALBANY, NEW YORK 12242

PROJECT NO.:	DATE:	OCCUPYING AGENCY:	
BUILDING ADDRESS: (street/city/state/zip/county)		FEDERAL ID NO.:	SOCIAL SECURITY NO.:
LANDLORD NAME:		LANDLORD ADDRESS/TELEPHONE NO.:	
		E-MAIL ADDRESS:	

<p>This Building Fact Sheet is required information, which is being provided in addition to your completed NYS Vendor Responsibility Questionnaire (which can be found at http://www.osc.state.ny.us/vendrep/index.htm).</p>	YES	NO
<p><u>LANDLORD/BUILDING INFORMATION:</u> <i>If explanation is required, please attach additional sheets as necessary.</i></p>		
<p>1. Is the Landlord's property interest in the building of which the premises form a part fee simple ownership? If NO, please describe the property interest (e.g. leasehold, purchase, contract, etc.) and provide a copy of all pertinent documents.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>2. Is the primary business of the Landlord the leasing of space? If NO, please provide an explanation/purpose of the Landlord's primary business.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>3. (a) Is any immediate family member of any individual listed in response to question #1.6 on the NYS Vendor Responsibility Questionnaire employed by any governmental entity of the State of New York or serving as a member of any State Board, Commission or Authority? If the answer is YES, please disclose the name of the governmental entity and indicate the relationship between the individuals.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>(b) Is any individual listed in response to question #1.6 on the NYS Vendor Responsibility Questionnaire employed by any governmental entity of the State of New York or serving as a member of any State Board, Commission or Authority? If the answer is YES, please disclose the name of the governmental entity and indicate whether the individual was involved in the bidding, contracting or leasing process for this transaction.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>4. Is there present on, near or within 30 meters of the premises or the building of which the premises form a part, any "PCB Transformers," "PCB Articles" or "PCB Equipment" as such terms are defined in U.S. Environmental Protection Agency Regulation 40CFR761? (PCB Transformer owners were required by U.S. EPA Regulation 40CFR761 to notify owners of commercial buildings of the existence of PCB Transformers within 30 meters of such buildings not later than December 1, 1985.)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • If answer to #4 is YES, are such "PCB Transformers," "PCB Articles" or "PCB Equipment" labeled in accordance with U.S. Environmental Protection Agency Regulation 40CFR761? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • If answer to #4 is YES, have such "PCB Transformers," "PCB Articles" or "PCB Equipment" been registered with fire response personnel having primary jurisdiction, as is required by U.S. Environmental Protection Agency Regulation 40CFR761? 	<input type="checkbox"/>	<input type="checkbox"/>
<p>5. Are there sprinklers in the premises?</p> <ul style="list-style-type: none"> • If YES are they Omega, Central, Gem or Star Sprinklers? • If Omega, Central, Gem or Star, have the defective parts been replaced/repaired pursuant to recent CPSC directives and building codes? 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>6. Was this building constructed prior to January 1, 1979? If YES, include date:</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>7. Is there present on or within the premises or the building of which the premises form a part, any asbestos material or material impregnated with asbestos or material of which asbestos forms a part? If yes, please briefly describe the nature and extent of the use of asbestos, including a description of any activity that has been undertaken to preclude the asbestos from becoming friable. Please attach a separate page, if necessary.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>The Landlord represents and warrants that the Demised Premises and the Building are free from hazard, particularly with reference to the United States Department of Labor and Occupational Safety and Health Administration Standards for permissible exposure limits to hazardous materials including but not limited to lead, PCBs, mold, animal droppings and mercury.</p> <p>If NO, please attach details on separate page.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>8. Is the building located within a historic district or is it listed on or as eligible for the State or National Register of Historic Places?</p>	<input type="checkbox"/>	<input type="checkbox"/>

9. Does the Landlord have any current or pending leases with any New York State Agencies, Authorities, Boards or Commissions? (A pending lease is one that is currently being negotiated with one of the listed governmental entities.) If YES, please provide details.	<input type="checkbox"/>	<input type="checkbox"/>
10. Will New York State businesses be used in the performance of the proposed lease? If YES, please identify NYS business(es) that will be used (attach identifying information).	<input type="checkbox"/>	<input type="checkbox"/>
11. Does the Landlord have the financial resources necessary to fulfill the requirements of the proposed lease?	<input type="checkbox"/>	<input type="checkbox"/>
12. The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics. The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices. Generally, the Human Rights Law applies to: <ul style="list-style-type: none">• all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;• employers with fewer than four employees in all cases involving sexual harassment; and,• any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin. Does the Business Entity certify, in accordance with Executive Order No. 177, that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law? Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.	<input type="checkbox"/>	<input type="checkbox"/>

SIGNATURE

The undersigned, personally and on behalf of the Landlord noted below, does hereby state and certify to The New York State Office of General Services that the information given above is true, accurate and complete with respect to State Finance Law § 139 j-k.

The undersigned: (1) recognizes that this document is submitted for the express purpose of assisting The New York State Office of General Services (hereinafter referred to as "OGS") and other New York State government entities (including the Office of the New York State Comptroller (OSC)) in making responsibility determinations regarding the award or approval of a lease or modification thereto (including, but not limited to, a renewal, modification or assignment thereof) and that OGS and other New York State government entities will rely on the information disclosed herein when making responsibility determinations; (2) acknowledges that OGS and other New York State government entities may, in their discretion, by means that they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or federal law, as well as a finding of non-responsibility and all other actions available at law or in equity.

The undersigned certifies that he/she:

- is knowledgeable about the Landlord’s business and operations;
- understands that OGS and other New York State government entities will rely on the information disclosed in this Building Fact Sheet when entering into a lease or modification thereto with the Landlord;
- is under an obligation to update the information provided herein to include any material changes to the Landlord’s responses from the time of proposal submission through the delivery of a fully executed document by OGS, and may be required to update the information at the request of OGS or other New York State government entities on the NYS Vendor Responsibility Questionnaire prior to the award and/or approval of a lease or modification thereto, or during the term of this Lease; and
- is authorized to bind the Landlord and is either (1) listed as an officer/partner/member of the Landlord listed in response to question #1.6 of the NYS Vendor Responsibility Questionnaire; or (2) is submitting a letter, with this Building Fact Sheet, on the company's letterhead signed by an officer/partner/member of the Landlord listed in response to question #1.6 of the NYS Vendor Responsibility Questionnaire, stating that the undersigned is authorized to sign on behalf of the Landlord.

I affirm this _____ day of _____, _____, under the penalties of perjury under the laws of New York State, which may include a fine or imprisonment, that the statements contained herein are true, and I understand that this document may be filed in an action or proceeding in a court of law.

Name of Landlord

Signature

Address

Print or Type Name

City, State, Zip

Title

Date: _____

Telephone Number: _____

SCHEDULE A

SECTION 16 - JANITORIAL SERVICE SPECIFICATIONS

The Landlord shall, at its sole cost and expense, provide the following janitorial services using materials and procedures that comply with the requirements set forth in Section 16 of this Lease. As used herein, the word "Daily" shall mean to occur once each day, Mondays through Fridays, excluding State Legal Holidays, as that term is defined in Section 13 of this Lease.

Drinking Fountains: Wash inside and outside Daily. Water shall be set at a high enough level that the mouth does not touch the faucet.

Floors-Resilient Tile: Dust mop Daily with cleaning products that comply with the requirements of EO-22, which is attached to this Lease as Exhibit 3, and spot mop as necessary. Spray buff monthly with commercially prepared spray buff material or a solution of water and floor finish that complies with the requirements of EO-22. Strip and redress annually with synthetic, metal, interlocked, non-slip material with a minimum of seventeen percent (17%) solids. Floors shall have a clean appearance at all times.

Floors-Carpeted: High traffic areas are to be vacuumed Daily. All carpet shall be completely vacuumed once a week, and shall be shampooed once a year.

Furniture: All surfaces must be cleaned and dust free.

Restrooms:

Daily - thoroughly clean all urinals, water closets and sinks, inside and outside, with a disinfectant and odor-counteractive solution that complies with the requirements of EO-22, which is attached to this Lease as Exhibit 3. Empty all trash and sanitary receptacles. Wash and sanitize all shelves, dispensers and receptacles. Clean all mirrors. Spot wash walls, partitions, doors and furniture. Wet mop and rinse all floor areas. Fill all dispensers so as to last a full working day.

Weekly - Dust all partitions and air vents.

Monthly - Wash all furniture in lounge area and partitions in restrooms.

Annually - Wash all walls, partitions, ceilings, and all air supply and return vents.

Light Fixtures: Annually wash inside and outside of all light fixtures, tubes and diffusers.

Venetian Blinds/Window Treatments: Dust monthly. Completely wash annually. Repair as needed.

Walls, Ceilings, Entrances, Metal Trim, Doors, Etc.:

Daily - Damp wipe fingerprints, smears, smudges, etc. from all entrance doors and frames, ornamental metal elevator doors and frames, elevator car interiors, escalator sides, handrails and glass. Clean elevator door tracks. Damp wipe floor indicators, wall surfaces and wall hung fixtures. Clean all

entrance glass, both inside and outside in public areas. Clean telephone booths and fixtures. Damp mop all non-carpeted floor surfaces in lobbies, corridors and entrances. Vacuum entrance mats. Sweep and wash floor in all elevators. Sweep escalator treads.

Monthly - Spray buff all non-carpeted corridor, lobby and vestibule floors.

Semi-annually - Completely wash both sides of all outside entrances and vestibules, glass, frames, handrails, steps, risers, accessible ramps and doors. Strip and redress corridor and lobby floors. Shampoo entrance carpets.

Annually - Wash corridor walls, vestibule walls and ceilings, and lobby walls.

Woodwork (Natural Wood Finish): Dust Daily. Clean and polish annually.

Stairwells, Landings and Concrete Floors:

Daily - Sweep, spot mop spills and remove gum Daily. Damp wipe fingerprints, smudges and smears on stairway doors, wall surfaces, hose racks and handrails.

Monthly - Mop and rinse stairway landings.

Annually - Wash and rinse walls, light fixtures, sills, treads, risers and handrails and apply dressing to all landings and treads.

Windows: To be cleaned, inside and out, in April and October. Interior partition glass to be clean at all times.

Rubbish: Wastepaper baskets and trash cans are to be emptied and trash removed from the Premises Daily. Wastepaper baskets are to be clean, odor free and lined Daily. In order to maximize materials recovery and implement effective programs to reduce waste, the Occupying Agency shall comply with the requirements and information found at: <https://ogs.ny.gov/greenny/state-agency-waste-reduction-reuse-recycling> within the Demised Premises in compliance with Section 16 of this Lease. As discussed in Section 16 of this Lease, the Landlord, at its sole cost and expense, agrees, to the extent practicable, to assist the Tenant and the Occupying Agency with implementing said programs and complying with the requirements and information found at: <https://ogs.ny.gov/greenny/state-agency-waste-reduction-reuse-recycling> and all laws, rules, orders, ordinances and regulations at any time issued or in force and applicable in the borough, city, county, or other municipality in which the Demised Premises are located.

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Maintenance and Trimming: Grass, shrubs and trees surrounding the Building to be clipped and trimmed. Use of chemicals shall be in accord with all applicable federal, State and local laws, rules, orders, ordinances and regulations.

Sidewalks, Entrances, and Parking Areas: Remove refuse and debris Daily. In winter, remove snow and ice from the walkway and parking lots and spread de-icer as needed.

The Landlord shall work with the Tenant and the Occupying Agency to comply with the requirements of EO-22, to the extent practicable, including but not limited to utilizing the GreenNY Council's approved specifications which can be found at: <https://ogs.ny.gov/greenny-purchasing-requirements-and-tools>.

SCHEDULE B

WORK LETTER

Prior to the Commencement Date of the Term, as defined in Sections 2 and 7 of this Lease, the Landlord shall, at its sole cost and expense, perform all the Landlord's Work or the Work (as those terms are defined in Section 1(e) below) and shall be responsible for all demolition, architectural and engineering work and construction and all costs and fees associated with the same within the Demised Premises. The Work shall be accomplished in two phases: (1) Design and (2) Construction. OGS Drawing No. _____, Revision _____, dated _____, referenced in Section 1 of this Lease as Exhibit 1, the Room Data Sheets, annexed hereto as Exhibit 1A, and _____ shall be considered "concept" drawings for use by the Landlord's architect and/or engineer to develop, design and provide working drawings as required for the Work to be in accordance with all applicable federal, State and local codes, rules and regulations, including, but not limited to, all referenced standards (such as: (i) the Americans with Disabilities Act Accessibility Guidelines (hereinafter referred to as the "ADAAG"), (ii) the Occupational Safety and Health Administration Act, (iii) the New York State Uniform Fire Prevention and Building Code and the Building Code of the _____ as applicable, any local rules or ordinances, as may be applicable, the OGS MSLF, attached to this Lease as Exhibit 2, the Cabling Specifications, attached to this Lease as Exhibit 2A, EO-22, attached to this Lease as Exhibit 3, and the Department of Labor Specifications for Leased Facilities, attached to this Lease as Exhibit 7 (for DOL Leases only) receipt of which is acknowledged by the Landlord). All specific material specifications depicted on Exhibit 1 shall be incorporated into the Landlord's working drawings. It is the responsibility of the Landlord's architect and/or engineer to verify existing site dimensions and conditions during design and construction, and to confirm that they are compatible with Exhibits 1, the Room Data Sheets, annexed hereto as Exhibit 1A, and _____. Any conflicts between the existing site dimensions, conditions and Exhibits 1, the Room Data Sheets, annexed hereto as Exhibit 1A, and _____ shall be immediately brought to the Tenant's attention.

Schedules: A preliminary project schedule with an estimated Substantial Completion date _____ (_____) days following delivery by the Tenant of a fully executed and approved copy of this Lease to the Landlord is attached to this Lease as Schedule C. Schedule C includes design milestones and an estimated construction duration. The Landlord agrees to begin and complete the Work at the times specified in Schedule C. The Landlord shall accordingly prosecute all the Work diligently, using such means and methods of construction as will assure Substantial Completion not later than the date specified therefor, or on the date to which the time of Substantial Completion has been extended due to Force Majeure, as that term is defined in Section 57 of this Lease, or Tenant Delay as defined in Section 2(j) of this Schedule B. Nothing herein, however, grants to the Landlord the privilege to use means, methods or materials that do not accord with sound and accepted practices or the requirements of this Work Letter.

The Landlord recognizes and acknowledges that the Occupying Agency will suffer damages by virtue of the Landlord's failure to complete the Work within the time specified which damages are difficult to ascertain. Accordingly, the Landlord shall pay the Tenant, on behalf of the Occupying Agency, not as a penalty, but as liquidated damages, the sum of _____ and 00/100 Dollars

(\$____) for each day beyond the date specified for completion of the Work (as extended) during which the Landlord fails to complete the Work, which amount represents the difference between the Fixed Rent provided in this Lease and the rent that the Tenant, on behalf of the Occupying Agency, pays at its present location.

1. Design Phase: The following procedures shall apply during this phase:

- a. The Landlord shall initiate a design kick-off meeting within ten (10) business days of receipt by the Landlord of a fully executed and approved copy of this Lease from the Tenant. The meeting shall include the Landlord's representative(s), the Landlord's general contractor, the Landlord's architect and/or engineer, and the Tenant's representatives.
- b. The Landlord shall submit, within ____ (__) business days of the design kick-off meeting, three (3) complete sets of working drawings, including specifications (stamped and signed by a New York State licensed architect or engineer), and a detailed cost estimate breakdown, by labor and material, for Special Tenant Work, as that term is defined in Section 2(1) of this Schedule B. The working drawings shall consist of, but not be limited to, the following: floor plans; reflected ceiling plans; interior elevations; sections; door and window details; finish schedules; electrical drawings; HVAC drawings; fire protection (sprinkler) drawings; plumbing drawings and demolition drawings.
- c. The Tenant shall review and comment on, or approve the Landlord's working drawings within fifteen (15) business days of receipt of the same.
- d. If comments are provided by the Tenant, the Landlord shall incorporate the Tenant's comments or provide a written response to each comment, as required, and resubmit three (3) complete sets of final working drawings within ten (10) business days of the Landlord's receipt of the Tenant's comments.
- e. Provided the Landlord has incorporated the Tenant's comments, the Tenant shall approve the working drawings within five (5) business days of receipt of the same. The approved working drawings shall thereafter be referred to as the "Approved Plans and Specifications," and all the Work therein described or shown shall hereinafter be referred to as the "Landlord's Work" or the "Work."

2. Construction Phase: All the Work to be furnished herein shall be completed in accordance with the following requirements:

- a. The Landlord shall initiate a construction pre-meeting within ten (10) business days after approval of the Approved Plans and Specifications. The meeting shall include the Landlord's representative(s), the Landlord's general contractor, the Landlord's architect and/or engineer, and the Tenant's representative(s) including, but not limited to, the Project Manager identified in Section 2(b) of this Schedule B.

- b. The Tenant's designated Project Manager for this Lease project is _____, whose address is The New York State Office of General Services, Lease Management, Division of Real Estate, Leasing Services, Construction/Design Management and Tenant Services, The Governor Nelson A. Rockefeller Empire State Plaza, Corning Tower, 40th Floor, Albany, New York 12242; telephone number 518-_____. Any notices and/or approvals given by the Project Manager shall be binding upon the Tenant and the Occupying Agency. The Tenant may change the Project Manager by written notice sent to the Landlord in accordance with Section 51 of this Lease.
- c. No Work of any nature shall be undertaken without written approval of the Project Manager unless such Work is required as part of the Approved Plans and Specifications.
- d. Substantial Completion shall be deemed to have been achieved only when each and every one of the following events has occurred:
- 1) The Landlord's architect has reviewed all Approved Plans and Specifications, and has certified in writing that the Landlord's Work has been performed in accordance with the Approved Plans and Specifications, complies with all applicable codes, rules and regulations, is suitable for occupancy notwithstanding incomplete, minor items or details, and the Tenant has acknowledged receipt of such certifications.
 - 2) A "punch list" has been established by the Landlord's architect and approved by the Tenant detailing all uncompleted items of the Work not essential to Substantial Completion, and the Landlord has provided to the Tenant a construction schedule for the completion of all items of the Work listed thereon.
 - 3) All building systems, including but not limited to, HVAC, electric and fire control systems serving the Demised Premises are in working order and have operated for five (5) consecutive days to demonstrate to the Tenant's satisfaction that they are in working order.
 - 4) All furniture, systems furniture, telecommunications systems, materials, equipment and goods necessary for equipping or furnishing the Premises, and all necessary wiring, have been installed.
 - 5) A test and balance report has been provided to the Tenant by the Landlord, pertaining to the HVAC systems, certifying that their installation and system performance has been completed in accordance with the current Associated Air Balance Council Bureau or ASHRAE (111) standards. Testing and balancing shall also reflect all Approved Plans and Specifications, stating exceptions, if any, and setting forth recommendations for all necessary adjustments.

- 6) The Landlord shall have removed all construction debris and performed, as far as applicable, the janitorial services required by this Lease in compliance with Section 16 and Schedule A of this Lease (or, if this Lease does not provide for such janitorial services, the Landlord shall perform such cleaning services as are reasonably required so that the Occupying Agency may occupy the Demised Premises). All resilient floors shall be stripped and redressed. Carpets shall be stain free and completely vacuumed. Pre-existing light fixtures shall be washed inside and out; venetian blinds/window treatments shall be completely washed and repaired as needed. All interior windows and frames shall be cleaned on both sides; inside surfaces of exterior windows and frames shall be cleaned. All diffusers shall be cleaned. Restrooms shall be thoroughly cleaned in accordance with the procedures set forth in Section 16 and Schedule A of this Lease.
 - 7) The Landlord shall have given the Tenant at least thirty (30) days' advance, written notice, in compliance with Section 51 of this Lease, of the expected date of Substantial Completion.
- e. Changes in the Work requested by the Tenant or desired by the Occupying Agency or the Landlord (hereinafter collectively referred to as "Change Orders") shall not be accepted or commenced without the written approval of the Tenant. The Project Manager shall promptly receive a copy of each Change Order and an explanation in reasonable detail for each change to the Approved Plans and Specifications, including an estimate of the cost thereof in the manner as hereinafter provided for Special Tenant Work and an indication of whether the changes will impact, affect or alter the project schedule, set forth in Schedule C of this Lease, or delay Substantial Completion and, if so, the anticipated duration of such delay. The Tenant shall promptly approve or deny the Change Order and, if the Change Order is denied, the Landlord may submit a reduced scope of work to achieve cost savings, but shall not commence anything contained in a Change Order until written approval from the Tenant is received in accordance with Section 51 of this Lease. Notwithstanding the foregoing, emergency Change Orders (i.e., those that may be of a life-threatening nature or may have a severe impact upon the progress of the Work) may be immediately approved on-site by the Project Manager on the following conditions:
- 1) Such approval or authorization to complete the emergency work shall not be construed as an assumption of responsibility for the cost thereof by the State of New York.
 - 2) The Party responsible for the cost of approved Emergency Change Orders must be decided upon between the Landlord and the Tenant within fifteen (15) business days after the approval or authorization of the Emergency Change Order(s).

- f. After the Work has progressed sufficiently, the Landlord shall permit, schedule and coordinate with the Tenant and/or the Occupying Agency entering the Demised Premises for the purpose of taking measurements and installing the Occupying Agency's equipment, fixtures, furnishings and telephone system. The Tenant and/or the Occupying Agency, however, shall not interfere with the Landlord's performance of the Work.
- g. The Landlord reserves the right to re-enter the Premises after delivery of possession to the Tenant in order to complete any unfinished portions of the Work.
- h. The Landlord, at its expense, shall file with the appropriate governmental agencies all necessary architectural plans, together with any mechanical plans and specifications, in such form (building notice, alteration or other form) as may be necessary. The Landlord shall perform any changes required by local governmental departments for the completion of the Demised Premises, and such changes shall not be deemed to be a violation of the Approved Plans and Specifications or any provisions of this section.
- i. The Landlord shall provide the Tenant with one set of record as-built drawings and one electronic (AutoCAD) file copy in dxf/dwg format within sixty (60) days of the completion of all the Work, including Special Tenant Work.
- j. If the Landlord shall be delayed in Substantial Completion of the Landlord's Work because of any of the following (hereinafter collectively referred to as "Tenant Delay"):
 - 1) Any work performed by the Tenant or the Occupying Agency; or
 - 2) The Tenant's or the Occupying Agency's changes in the Approved Plans and Specifications, specifications or materials subsequent to their submission to the Landlord; or
 - 3) The performance or completion of work by a person, firm or corporation employed or contracted with by the Tenant or the Occupying Agency; or
 - 4) The Tenant's failure to timely respond to requests for approvals or changes; or
 - 5) Any Change Order delays contained in the approved estimate,

then the Landlord shall not be responsible for any such substantiated Tenant Delays resulting therefrom, and the Commencement Date shall be accelerated by the number of days attributable to such Tenant Delay. Any claim by the Landlord of Tenant Delay shall be substantiated in writing, accompanied by an updated construction schedule noting that Tenant Delay and sent to the Project Manager in a timely manner.

- k. The Occupying Agency shall be responsible for securing and scheduling a move vendor prior to the Landlord's delivery of the notice of Substantial Completion to the Tenant. The Landlord shall assist in coordinating building access, security clearance, and freight elevator usage with the Occupying Agency's move vendor.
- l. The Tenant, on behalf of the Occupying Agency, shall reimburse the Landlord for the Landlord's actual costs including redesign costs for providing "Special Tenant Work" which shall mean Change Orders requested and approved pursuant to Section 2(e) of this Schedule B.
- m. Special Tenant Work shall not commence unless the Landlord has submitted to the Tenant (i) written estimates that must include as a minimum:
 - o an itemized description of work elements;
 - o quantities;
 - o material unit cost;
 - o total material unit cost;
 - o labor unit cost;
 - o total labor unit cost;
 - o total material and labor unit cost;
 - o summary of total material and labor unit cost; and
 - o architectural and engineering fees and permit fees.

No lump sum cost will be accepted. The estimate shall also include a credit for avoided costs for any Work not performed as a result of such Change Order; (ii) the number of substantiated days of Tenant Delay, if any, and the substantiated cost or charges therefor; (iii) indication by the Landlord's architect that such estimate and Tenant Delay (if any) is consistent with the design. The Landlord's architect shall review and approve, for technical sufficiency and cost, such submittals. In addition, Special Tenant Work shall not commence unless the Tenant has approved the Landlord's estimate in writing and has authorized the Landlord to commence such Special Tenant Work. The approved estimate shall be considered a maximum cost to the Occupying Agency, subject to downward revision based on costs actually incurred. If the Tenant shall fail to approve such estimates in writing within ten (10) business days following receipt, the same shall be deemed disapproved in all respects by the Tenant and the Landlord shall not be authorized or required to proceed thereon. The Landlord shall be paid for Special Tenant Work, by the Tenant, on behalf of the Occupying Agency, in interim payments drawn no more frequently than every thirty (30) days, in compliance with Article 11-A of the New York State Finance Law. Such payments shall bear the same proportional relationship to the total compensation for the Special Tenant Work, as the amount of the Special Tenant Work for which an interim payment is sought bears to the total amount of Special Tenant Work to be performed. The total interim payments shall not exceed ninety percent (90%) of the total cost for Special Tenant Work. The balance shall be payable upon certification by the Landlord's architect and approval by Project Manager that the Special Tenant Work has been satisfactorily completed, and that the Landlord has

achieved Substantial Completion and has completed all punch list items of the Work.

- n. The Landlord shall submit all applications for payment for Special Tenant Work to the Project Manager.

3. General Provisions

- a. During the design and construction phase(s) it shall be necessary for the Landlord to participate in meetings with the Tenant. The Landlord shall be responsible for taking, preparing and distributing minutes within five (5) business days to all in attendance at all such meetings.
- b. During the design and construction phase(s) the Landlord and/or its representatives shall periodically update the project schedule set forth on Schedule C of this Lease. Upon submission of the working drawings, a revised schedule shall be submitted. Within five (5) business days of the pre-construction meeting, a detailed construction schedule shall be provided outlining major construction milestones including Special Tenant Work and coordination with any of the Tenant or the Occupying Agency's contractors.
- c. Review by the Tenant shall be non-technical review of the design, materials and equipment, and shall not be deemed to mean technical, architectural or engineering approval of structural capacity, size of ducts and piping, adequacy of electrical wiring, compressor capacities and, without limitation, other technical matters; and shall not relieve the Landlord of its responsibility for the proper and adequate design and construction of the Building, Demised Premises and the improvements thereto. It shall remain the Landlord's responsibility to ensure that the structure and detail of the utilities and mechanical systems meet the design requirements as set forth in this Lease.
- d. All concealed field conditions that impact the design or Work hereunder are and shall be the responsibility and cost of the Landlord.
- e. All materials used in the performance of the Landlord's Work shall be new material conforming to the requirements of this Lease and the Landlord's working drawings unless (i) written authorization for a substitution is received from the Tenant; or (ii) the Landlord uses any part of the existing installation relating to the Building's systems, provided the same is put in good condition.
- f. All applications for payment hereunder shall be made by invoices submitted no more frequently than every thirty (30) days and shall be paid in compliance with Article 11-A of the New York State Finance Law. All applications shall be itemized and supported by accurate documentation, including receipted bills for expenditures made by the Landlord, and shall extend all hours and rates into dollar amounts.

SCHEDULE C

Construction and Renovation Schedule

Landlord’s receipt of the fully executed and approved Lease from the Tenant	Day “X”
Design Kick-Off Meeting	X+10 days
Landlord to Submit Working Drawings to the Tenant	X+ days
Tenant Review of Working Drawings	X+ days
Landlord adjusts Working Drawings to incorporate Tenant comments, and prepares Final Working Drawings	X+ days
Final Tenant approval of Working Drawings	X+ days
Construction Pre-Meeting	X+ days
Construction Time	XXX days from Construction Pre- Meeting
TOTAL DAYS	XXX days